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सं. 4]

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No. 4]

NEW DELHI, SATURDAY, JANUARY 28, 1995/MAGHA 8, 1916

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (II) PART II—Section 3—Sub-section (II)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

कामिक, लोक शिकायत तथा पेंशन मंत्रालय

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

(कामिक और प्रशिक्षण विभाग)

New Delhi, the 6th January, 1995

नई दिल्ली, 6 जनवरी, 1995

क्र. प्र. 166 :—आयुक्तकारी एवं विध्वंसकारी गतिविधियां
(निवारक) अधिनियम, 1987 (1987 का 28) की धारा 13 की
उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार
उक्त अधिनियम के अंतर्गत श्री राजेश टंडन, अधिवक्ता, अजमेर (राज-
स्थान), को सामान्य आर.सी. 2(एस)/91/एस.आई.यू.-5/एस.आई.
सी.-2/सी.डी.आई./एस.पी.ई./नई दिल्ली और उससे जुड़े प्रत्यक्ष उसके
साथ घटित अन्य मामलों को गठित नामित न्यायालय, अजमेर में मंचालित
करने के लिए विशेष लोक अभियोजक नियुक्त करती है।

S.O. 166.—In exercise of the powers conferred by the
proviso to sub-section (1) of Section 13 of the Terrorist and
Disruptive Activities (Prevention) Act, 1987 (Act No. 28 of
1987) the Central Government hereby appoints Shri Rajesh
Tondon, Advocate, Ajmer (Rajasthan) as Special Public Pro-
secutor for conducting case RC. 2/S. 91/SIU-V/SIC.II/CBI/|
SPE New Delhi and any other matter connected therewith or
incidental thereto, in the designated Court at Ajmer consti-
tuted under the provisions of Section 9 of Terrorist and Dis-
ruptive Activities (Prevention) Act, 1987.

[No. 225/29/94-AVD.II]
R. S. BISHT, Under Secy.

आदेश

नई दिल्ली, 10 जनवरी, 1995

[सं 225/29/94-ए. पी. डी.-II]

आर.एस. बिष्ट, अधर सचिव

क्र. प्र. 167 :—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस
स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा
6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का

प्रयोग करते हुए उत्तर प्रदेश राज्य सरकार के पत्र सं.-257-ख/6-4-93-102 (179) बी/92 दिनांक फरवरी, 1993 और पत्र सं.-4459-ख/छ-4-1994-102 (179)/बी-92 दिनांक 5-10-1994 द्वारा प्राप्त उत्तर प्रदेश राज्य सरकार की सहमति से दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तारण 22-4-1992 को थाना खैराबाद जिला सीतापुर में रमाकांत शुक्ला के विरुद्ध विस्फोटक अधिनियम की धारा 5 के अंतर्गत वर्ज्य मामला अपराध सं.-54/92 के संदर्भ में सीतापुर जिले में रमाकांत शुक्ला की मृत्यु तथा पूर्वोक्त मामले में संबंधित उन्हीं तथ्यों से उद्भूत वेसे ही संभवहार के अनुक्रम में किए गए एक या अधिक अपराधों से संबंधित अथवा संसक्त किन्हीं अन्य अपराधों प्रयत्नों, कुप्रेरणों तथा पद्यों के अन्वेषण के लिए संपूर्ण उत्तर प्रदेश राज्य पर करती है।

[सं. 228/67/94-ए. बी. सी. (II)]

आर. एस. बिष्ट, अवर सचिव

ORDER

New Delhi, the 10th January, 1995

S.O. 167.—In exercise of the powers conferred by sub-section (1) of the Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government with the consent of the State Government of Uttar Pradesh accorded vide No. 257-KHA/6-4-93-102 (179)B/92 dated February, 1993 and letter No. 4459-KHA/CHH-4-1994-102(179)/B/92 dated 5-10-1994 hereby extends the powers and jurisdiction of members of the Delhi Special Police Establishment in the whole of the State of Uttar Pradesh for investigation of death of Rama Kant Shukla of Sitapur District in the context of case No. 54/92 Under Section 5 Explosives Act registered against Rama Kant Shukla at PS Khairabad District Sitapur on 22-4-1992 and any other offence(s) attempts, abetments and conspiracies in relation to or in connection with one or more of the offences committed in the course of the same transaction arising out of the same facts in relation to the aforesaid case.

[No. 228/67/94-AVD.II]

R. S. BISHT, Under Secy.

नई दिल्ली, 10 जनवरी, 1995

का.धा. 168.—केन्द्रीय सरकार, दण्ड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, श्री बी.पी. पाण्डे एवं श्री ए.पी. साहय, अधिवक्ताओं को दिल्ली विशेष स्थापन नियमित मामला संख्या 14/71 ए.सी.यू. (4) राज्य बनाम विनयानन्द तथा अन्य; जो आनन्दमार्गियों के पास से 21 जून, 1971 को बरामद विस्फोटक मामली प्राप्ति से संबंधित है, सब-जज (द्वितीय) न्यायालय, पटना (बिहार) में अभियोजन के संचालन के लिए विशेष लोक अभियोजक नियुक्त करती है।

[सं. 225/23/94-ए. बी. सी.-II]

आर.एस. बिष्ट, अवर सचिव

New Delhi, the 10th January, 1995

S.O. 168.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri V. P. Pandey and Mr. A. P. Sahai, Advocates as Special Public Prosecutors for conducting prosecution of the Delhi Special Police Establishment Regular Case No. 14 of 71 ACU-IV, New Delhi Vs. Vinyanand and others, relating to the seizure of explosive substances from Anandmargis on 21st day of June, 1971 in the Court of Sub-Judge II, Patna (Bihar).

[No. 225/23/94-AVD-II]

R. S. BISHT, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 30 दिसम्बर, 1994

(आयकर)

का.धा. 169.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-अ) के उपखंड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "इदारा दवातुल कुरान, बम्बई" को करनिर्धारण वर्ष 1992-93 से 1994-95 तक के लिए निम्नलिखित शर्तों के अधीन रखते हुए उक्त उपखंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (i) करनिर्धारिणी इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संन्यास पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है।
- (ii) करनिर्धारिणी ऊपर उल्लिखित कर-निर्धारण शर्तों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा II की उप-धारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ङग अथवा तरीकों में भिन्न तरीकों में इसकी निधि (जैसे- जवाहिरात, फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वीकृत अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा।
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अधिनाय के रूप में हो जब तक कि ऐसा कारोबार उक्त करनिर्धारिणी के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखापुस्तिकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 9681/का.सं. 197/120/94-आयकर नि-1]

साधना शंकर, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 30th December, 1994

(INCOME-TAX)

S.O. 169.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Idara Dawatul Quran, Bombay" for the purpose of the said sub-clause for the assessment years 1992-93 to 1994-95 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 9681/F. No. 197/120/94-ITA-II]

SADHNA SHANKER, Under Secy.

नई दिल्ली, 30 दिसम्बर, 1994

नई दिल्ली, 11 जनवरी, 1995

(आयकर)

(आयकर)

का.आ. 170.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "आरुमिगु कल्लालागार श्रीरुक्मायल, मयूरई, तमिलनाडु" को कर-निर्धारण वर्ष 1991-92 से 93-94 तक के लिए निम्नलिखित शर्तों के अध्वधीन रहूँसे हुए, उक्त उपखण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (1) कर-निर्धारिता इसकी आय का इन्फ्लेमान्त अथवा इसकी आय का इस्तेमाल करने के लिए इसका संप्रदान पूर्णतया नया अन्वयसया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (2) कर-निर्धारिता उक्त उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अवस्था एक से अधिक उक्त अवस्था तरीकों से निम्न तरीकों से इसकी निधि (जेशर-जवाहरिगत, कर्नाचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वीकृत अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (3) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जबकि कारणवार से प्राप्त लाभ तथा अभिलास के रूप में हो या तब कि ऐसा कारणवार उक्त कर-निर्धारिता के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे काराधार के मध्य में अलग से सेवा-युक्तिकाएँ नहीं रखी जाती हों।

[अधिसूचना सं. 9676/का.सं. 197/93/94-आयकर नि. I.]
साधना शंकर, अवर सचिव

New Delhi, the 30th December, 1994

(INCOME-TAX)

S.O. 170.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Arumigu Kallalagar Thirukkoll, Madurai, Tamil Nadu" for the purpose of the said sub-clause for the assessment years 1991-92 to 1993-94 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 9676/F. No. 197/93/94-ITA-I]
SADHNA SHANKER, Under Secy.

का.आ. 171.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 80 छ की उपधारा (2) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा उक्त धारा के प्रयोजनार्थ संपूर्ण कर्नाटक राज्य में विख्यात सार्वजनिक पूजा स्थल होने के कारण "श्री थिरुनारायण स्वामी मंदिर, मेल्कोटे, बंगलौर" को अधिसूचित करती है।

[अधिसूचना सं. 9688/का.सं. 176/58/94-आयकर नि. I]

साधना शंकर, अवर सचिव

New Delhi, the 11th January, 1995

(INCOME-TAX)

S.O. 171.—In exercise of the powers conferred by clause (b) of sub-section (2) of Section 80G of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Sri Thirunarayana Swamy Temple, Melkote, Bangalore" to be a place of public worship of renown throughout the State of Karnataka for the purpose of the said section.

[Notification No. 9688/F. No. 176/58/94-ITA-I]
SADHNA SHANKER, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 10 जनवरी, 1995

का.आ. 172.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 19 की उपधारा (2) के उपबंध युनाइटेड बैंक आफ इंडिया, कलकत्ता, पर 31 दिसम्बर, 1996 तक उस सीमा तक लागू नहीं होंगे जहाँ तक उनका संबंध गिराधार के रूप में मेसर्स बंगाल टूल एण्ड इंजीनियरिंग क. प्रा. लि., कलकत्ता की प्रदत्त गेयर पुर्जा की उनकी धारिता से है।

[सं. 15/1/95-बी. ऑ. ए.]

बी. एन. सचदेव, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 10th January, 1995

S.O. 172.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (2) of Section 19 of the said Act shall not apply to United Bank of India, Calcutta, for a period upto 31st December, 1996 in respect of its holding shares of M/s. Bengal Tools and Engineering Co. Pvt. Ltd., Calcutta, as pledgee.

[No. 15/1-95-BOA]

B. L. SACHDEVA, Under Secy.

नई दिल्ली, 16 जनवरी, 1995

का.आ. 173 :—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) अधिनियम, 1970 के खण्ड 8 के उपखण्ड (1), खण्ड 7 और खण्ड 8 के उपखण्ड (1) के साथ पठित खण्ड 3 के उपखण्ड (क) के अनुसरण में, में, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के साथ परामर्श करने के पश्चात्, एतद्वारा, देना बैंक के वर्तमान अध्यक्ष एवं प्रबंध निदेशक श्री के. कन्नन को उनके कार्याभार ग्रहण करने की तारीख से 30 नवम्बर, 1999 तक की अवधि के लिए बैंक आफ बरोडा के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[सं. एफ. 9/33/94-बी.ओ.-I]
क.के. मंगल, अवसर सचिव

New Delhi, the 16th January, 1995

S.O. 173.—In pursuance of sub-clause (a) of clause 3 read with sub-clause (1) of clause 5, clause 7 and sub-clause (1) of clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri K. Kannan, presently Chairman and Managing Director, Dena Bank, as the Chairman and Managing Director, Bank of Baroda, for the period from the date of his taking charge and upto 30th November, 1999.

[F. No. 9/33/94-BO.I]
K. K. MANGAL, Under Secy.

(व्यय विभाग)

नई दिल्ली, 12 जनवरी, 1995

का.आ. 174 :—राष्ट्रपति, भारत के संविधान के अनुच्छेद 77 के खंड (3) के अनुसरण में, वित्तीय शक्तियों का प्रत्यायोजन नियम, 1978 का ओर संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात् :-

1. (1) इन नियमों का संक्षिप्त नाम वित्तीय शक्तियों का प्रत्यायोजन (संशोधन) नियम, 1995 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. वित्तीय शक्तियों का प्रत्यायोजन नियम, 1978 के नियम 21 के पहले परन्तुक में, -

(1) खंड (क) में, "एक करोड़" शब्दों के स्थान पर "पांच करोड़" शब्द रखे जाएंगे।

(2) खंड (ख) में, "साठ लाख" शब्दों के स्थान पर "एक करोड़" शब्द रखे जाएंगे।

(3) खंड (ग) में, "बासीस लाख" शब्दों के स्थान पर "साठ लाख" शब्द रखे जाएंगे और

(4) खंड (ड.) में, "बीस लाख" शब्दों के स्थान पर "पचास लाख" शब्द रखे जाएंगे।

[सं. का. 1 (4)/1 ई. II (ए)/193]

सचराधा प्रसाद, अथर सचिव

टिप्पणी. वित्तीय शक्तियों का प्रत्यायोजन नियम, 1978 अधिसूचना सं. का.आ. 2131 तारीख 22 जुलाई, 1978 द्वारा प्रकाशित किया गया था और उसके पश्चात् उनका निम्नलिखित द्वारा संशोधन किया गया :-

- (1) अधिसूचना सं. का.आ. 1887, तारीख 9-6-1979
- (2) अधिसूचना सं. का.आ. 2942, तारीख 1-9-1979
- (3) अधिसूचना सं. का.आ. 2611, तारीख 4-10-1980
- (4) अधिसूचना सं. का.आ. 2164, तारीख 15-8-1981
- (5) अधिसूचना सं. का.आ. 2304, तारीख 5-9-1981
- (6) अधिसूचना सं. का.आ. 3078, तारीख 4-9-1982
- (7) अधिसूचना सं. का.आ. 4171, तारीख 11-12-1982
- (8) अधिसूचना सं. का.आ. 1314, तारीख 28-2-1983
- (9) अधिसूचना सं. का.आ. 2502, तारीख 4-8-1984
- (10) अधिसूचना सं. का.आ. 22, तारीख 5-1-1985
- (11) गुज्रपत्र सं. का.आ. 1958, तारीख 11-5-1985
- (12) अधिसूचना सं. का.आ. 3082, तारीख 6-7-1985
- (13) अधिसूचना सं. का.आ. 3974, तारीख 24-8-1985
- (14) अधिसूचना सं. का.आ. 5641, तारीख 21-12-1985
- (15) अधिसूचना सं. का.आ. 1548, तारीख 19-4-1986
- (16) अधिसूचना सं. का.आ. 3183, तारीख 20-9-1986
- (17) अधिसूचना सं. का.आ. 3787, तारीख 8-11-1986
- (18) अधिसूचना सं. का.आ. 2508, तारीख 19-9-1987
- (19) अधिसूचना सं. का.आ. 3092, तारीख 7-11-1987
- (20) अधिसूचना सं. का.आ. 3581, तारीख 10-12-1987
- (21) अधिसूचना सं. का.आ. 611, तारीख 17-3-1990
- (22) अधिसूचना सं. का.आ. 1469, तारीख 26-5-1990
- (23) अधिसूचना सं. का.आ. 2173, तारीख 18-8-1990
- (24) अधिसूचना सं. का.आ. 3033, तारीख 17-11-1990
- (25) अधिसूचना सं. का.आ. 3414, तारीख 22-12-1990
- (26) अधिसूचना सं. का.आ. 534, तारीख 23-2-1991
- (27) अधिसूचना सं. का.आ. 2335 तारीख 24-8-1991
- (28) अधिसूचना सं. का.आ. 547 (ख) तारीख 24-7-1992
- (29) अधिसूचना सं. का.आ. 466 तारीख 13-3-1993
- (30) अधिसूचना सं. का.आ. 1292, तारीख 12-6-1993
- (31) अधिसूचना सं. का.आ. 685, तारीख 13-3-1994
- (32) अधिसूचना सं. का.आ. 1232, तारीख 28-5-1994
- (33) अधिसूचना सं. का.आ. 1945, तारीख 13-8-1994
- (34) अधिसूचना सं. का.आ. 2451, तारीख 24-9-1994

(Department of Expenditure)

New Delhi, the 12th January, 1995

S.O. 174.— In pursuance of clause (3) of article 77 of the Constitution of India, the President hereby makes the following rules further to amend the Delegation of Financial Powers Rules, 1978, namely :—

1. (1) These rules may be called the Delegation of Financial Powers (Amendment) Rules, 1995.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Delegation of Financial Powers Rules, 1978, in rule 21, in first proviso,—
 - (i) in clause (a), for the words “one crore”, the words “five crores” shall be substituted;
 - (ii) in clause (b), for the words “sixty lakhs”, the words “one crore” shall be substituted;
 - (iii) in clause (c), for the words “forty lakhs”, the words “sixty lakhs” shall be substituted; and
 - (iv) in clause (c), for the words “twenty lakhs”, the words “fifty lakhs” shall be substituted.

[No. F. 1(4)-E.II(A)/93]

ANURADHA PRASAD, Under Secy.

Note: The Delegation of Financial Powers Rules, 1978 published vide Notification No. S.O. 2131, dated 22nd July, 1978 have subsequently been amended by :—

- (i) Notification No. S.O. 1887, dated 9-6-1979.
- (ii) Notification No. S.O. 2942, dated 1-9-1979.
- (iii) Notification No. S.O. 2611, dated 4-10-1980.
- (iv) Notification No. S.O. 2164, dated 15-8-1981.
- (v) Notification No. S.O. 2304, dated 5-9-1981.
- (vi) Notification No. S.O. 3073, dated 4-9-1982.
- (vii) Notification No. S.O. 4171, dated 11-12-1982.
- (viii) Notification No. S.O. 1314, dated 26-2-1983.
- (ix) Notification No. S.O. 2502, dated 4-8-1984.
- (x) Notification No. S.O. 22, dated 5-1-1985.
- (xi) Corrigendum No. S.O. 1958, dated 11-5-1985.
- (xii) Notification No. S.O. 3082, dated 6-7-1985.
- (xiii) Notification No. S.O. 3974, dated 24-8-1985.
- (xiv) Notification No. S.O. 5641, dated 21-12-1985.
- (xv) Notification No. S.O. 1548, dated 19-4-1986.
- (xvi) Notification No. S.O. 3183, dated 20-9-1986.
- (xvii) Notification No. S.O. 3787, dated 8-11-1986.
- (xviii) Notification No. S.O. 2508, dated 19-7-1987.
- (xix) Notification No. S.O. 3092, dated 7-11-1987.
- (xx) Notification No. S.O. 3581, dated 10-12-1988.
- (xxi) Notification No. S.O. 641, dated 17-3-1990.
- (xxii) Notification No. S.O. 1469, dated 26-5-1990.
- (xxiii) Notification No. S.O. 2173, dated 18-8-1990.
- (xxiv) Notification No. S.O. 3033, dated 17-11-1990.
- (xxv) Notification No. S.O. 3414, dated 22-12-1990.
- (xxvi) Notification No. S.O. 534, dated 23-2-1991.
- (xxvii) Notification No. S.O. 2235, dated 24-8-1991.
- (xxviii) Notification No. S.O. 547(E), dated 24-7-1992.
- (xxix) Notification No. S.O. 466, dated 13-3-1993.
- (xxx) Notification No. S.O. 1292, dated 12-6-1993.
- (xxxi) Notification No. S.O. 685, dated 12-3-1994.
- (xxxii) Notification No. S.O. 1232, dated 28-5-1994.
- (xxxiii) Notification No. S.O. 1945, dated 13-8-1994.
- (xxxiv) Notification No. S.O. 2451, dated 24-9-1994.

केन्द्रीय उत्पाद शुल्क समाहर्तानियम

CENTRAL EXCISE COLLECTORATE

अधिसूचना संख्या सी.ई.आर./भार-5/1/95 तकनीकी

NOTIFICATION NO. CER/R-5/1/95-TECHNICAL

नागपुर, 5 जनवरी, 1995

Nagpur, the 5th January, 1995

का. आ. 175:—केन्द्रीय उत्पाद शुल्क नियमावली, 1944 के नियम-5 के अंतर्गत प्रवृत्त शक्तियों का प्रयोग करते हुए मैं एतद्वारा केन्द्रीय उत्पाद शुल्क नियमावली, 1944 के नियम-52ए (6) एवं 57-जी जी (5) के अंतर्गत शक्तियों को प्रभागीय कार्यालयों के प्रभारी केन्द्रीय उत्पाद शुल्क सहायक समाहर्ताओं को किसी एक समय एक से अधिक इनवाइसों की पुस्तकों का रखरखाव करने के लिए अनुमति प्रदान करने हेतु तत्काल से प्रत्यायोजित करता हूँ। बशर्ते कि उनकी क्रम संख्या अलग-अलग हों।

S.O. 175.—In exercise of the powers conferred upon me under rule 5 of Central Excise Rules, 1944 I hereby delegate the Collector's powers under rule 52A (6) and 57GG (5) ibid with immediate effect to the Assistant Collectors of Central Excise in charge of the Divisions for grant of permission to maintain more than one book of invoices at any one time provided the serial numbers are different.

[फा सं. 4 (16)/8-22/80-भाग-II/373]

[C. No. IV(16)8-22/80/Pt-II/373]

जेड. बी. नागर्कर, समाहर्ता

Z. B. NAGARKAR, Collector

कोयला मंत्रालय

नई दिल्ली, 4 जनवरी, 1995

का. आ. 176:—केन्द्रीय सरकार को यह प्रतीत होता है कि इसमें उल्लिखित अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्त किए जाने की संभावना है ;

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) धारा 4 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, उप क्षेत्र में कोयले का पूर्वोक्षण करने के अपने आशय की सूचना देती है।

इस अधिसूचना के अंतर्गत आने वाले क्षेत्र के रेखांक सं. एस. ई. सी. एल./बी. एस. पी./जी. एम. (पी. एल. जी.) लैंड/138 तारीख 5 मितम्बर 1994 का निरीक्षण साउथ ईस्टर्न कोलफील्ड्स लि., राजस्व विभाग, सीपत रोड, बिलासपुर-495001 के कार्यालय में या कलक्टर सरगुजा (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कलकत्ता के कार्यालय में किया जा सकता है।

इस अधिसूचना के अंतर्गत आने वाली भूमि में हितवृद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों की, इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर, भार-साधक अधिकारी/विभागाध्यक्ष (राजस्व) साउथ ईस्टर्न कोलफील्ड्स लि., सीपत रोड, बिलासपुर-495001 (मध्य प्रदेश) को भेजेंगे।

अनुसूची

टेंगानी ब्लाक

(कोरिया कोयला खान के पार्श्वस्थ)

चिरिमिरी क्षेत्र

जिला—सरगुजा (मध्य प्रदेश)

(रेखांक सख्यांक एस. ई. सी. एल./बी. एस. पी./जी. एम. (पी. एल. जी.)/लैंड/138, तारीख 5 मितम्बर, 1994

वन भूमि

क्रम संख्यांक	वन कम्पार्टमेंट संख्यांक	रेज	डिवीजन	हैक्टर में क्षेत्र	टिप्पणियां
1.	494	चिरिमिरी (बुंदिया बहुरा आरक्षित वन)	कोरिया	211.73	भाग
2.	496	चिरिमिरी (बुंदिया बहुरा आरक्षित वन)	कोरिया	04.24	भाग
3.	519	चिरिमिरी (बुंदिया बहुरा आरक्षित वन)	कोरिया	27.79	भाग
योग				243.76 हैक्टर (लगभग)	
				या	
				602.33 एकड़ (लगभग)	

क-ख-ग-घ-ङ-च-छ रेखा वन कम्पार्टमेंट संख्यांक 494 में बिन्दु "क" से आरंभ होती है और वन कम्पार्टमेंट संख्यांक 494 से होकर जाती है तथा बिन्दु "छ" पर मिलती है।

छ-ज-झ रेखा वन कम्पार्टमेंट संख्यांक 494, 519, 496 से होकर जाती है और बिन्दु "झ" पर मिलती है।
झ-ञ-ट रेखा वन कम्पार्टमेंट संख्यांक 494, 496, 494 से होकर जाती है और आरंभिक बिन्दु "क" पर मिलती है।

[संख्या 43015/24/94-एल. एस. डब्लू.]

नरेन्द्र भगत, निदेशक

MINISTRY OF COAL

New Delhi, the 4th January, 1995

S.O. 176.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the power conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein.

The Plan bearing number SECL/BSP/GM(PLG.)/Land/138 dated the 5th September, 1994 of the area covered by this notification can be inspected in the office of the South Eastern Coalfields Limited, Revenue Section, at Seepat Road, Bilaspur-495001 or in the office of the Collector, Surguja (Madhya Pradesh) or in the office of the Coal Controller, 1, Council House Street, Calcutta.

All persons interested in the land covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Officer-in-Charge/Head of the Department (Revenue), South Eastern Coalfields Limited, Seepat Road, Bilaspur-495001 (Madhya Pradesh) within ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE

TENGANI BLOCK

(ADJACENT TO KOREA COLLIERY)

CHIRIMIRI ARFA

DISTRICT-SURGUJA (MADHYA PRADESH)

(Plan number SECL/BSP/GM(Plg.)/Land/138 dated 5th September, 1994)

Forest Land

SL. No.	Forest Compartment number	Range	Division	Area in hectares	Remarks
1.	494	Chirimiri (Bundia Bahara Reserved Forest)	Korea	211.73	Part
2.	496	Chirimiri (Bundia Bahara Reserved Forest)	Korea	04.24	Part
3.	519	Chirimiri (Bundia Bahara Reserved Forest)	Korea	27.79	Part
Total				243.76 hectares (approximately)	
				or 602.33 acres (approximately)	

Line passes through forest compartment numbers 494, 496, 494 and meets at the starting point 'A'.

N. BHAGAT, Director

क्रम सौजा/ग्राम का नाम सं.	पटवारी सर्किल संख्यांक	बंदोबस्त संख्यांक	तहसील	जिला	क्षेत्र हेक्टेयर में	टिप्पणियां
1. उड़धान	66	24	परामिया	छिंदवाड़ा	284.671	भाग
2. जमनिया	66	192	परामिया	छिंदवाड़ा	20.650	भाग
3. बगवडिया	67	369	परामिया	छिंदवाड़ा	182.108	भाग
4. बडिया (आरक्षित वन)	—	—	परामिया	छिंदवाड़ा	113.311	भाग
कुल क्षेत्र— हेक्टेयर (लगभग)					600.740	
या					1484.98	(एकड़)

सीमा वर्णन:—

- क—ख रेखा बिन्दु “क” से प्रारंभ होती है और ग्राम बगवड़डिया से होकर जाती है तथा बिन्दु “ख” पर मिलती है ।
- ख—ग रेखा ग्राम बगवड़डिया और बड़डिया प्रारक्षित वन की सम्मिलित सीमा के साथ-साथ जाती है और बिन्दु “ग” पर मिलती है ।
- ग—घ रेखा बड़डिया प्रारक्षित वन से होकर जाती है, उसके बाद ग्राम जमुनिया से होकर आगे बढ़ती है और बिन्दु “घ” पर मिलती है ।
- घ—ङ रेखा ग्राम जमुनिया से होकर जाती है और बिन्दु “ङ” पर मिलती है ।
- ङ—च रेखा ग्राम जमुनिया से होकर जाती है और ग्राम उड़धान से होकर आगे बढ़ती है तथा बिन्दु “च” पर मिलती है ।
- च—छ रेखा ग्राम उड़धान और तमरी की सम्मिलित ग्राम सीमा के साथ-साथ जाती है तथा बिन्दु “छ” पर मिलती है ।
- छ—ज रेखा ग्राम उड़धान और झूरी की सम्मिलित ग्राम सीमा के साथ-साथ जाती है तथा बिन्दु “ज” पर मिलती है ।
- ज—क रेखा थावानरी प्रारक्षित वन और ग्राम उड़धान तथा थावानरी प्रारक्षित वन और ग्राम बगवड़डिया की सम्मिलित सीमाओं के साथ-साथ जाती है तथा प्रारंभिक बिन्दु “क” पर मिलती है ।

[सं. 43015/17/94-एल. एस. डब्ल्यू.]

नरेन्द्र भगत, निदेशक

New Delhi, the 4th January, 1995

S. O. 177.— Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein.

The Plan bearing No. C-1(E)III/GR/554-0694 dated the 29th June, 1994 of the area covered by this notification can be inspected in the office of the Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur-440001 (Maharashtra) or in the office of the Collector, Chhindwara (Madhya Pradesh) or in the office of the Coal Controller, 1, Council House street, Calcutta.

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Officer-in-charge/Head of the Department (Revenue), Western Coalfields Limited, Coal Estate, Civil Lines, Nagpur 440-001 (Maharashtra) within ninety days from the date of publication of this notification.

SCHEDULE
MAGRAI BLOCK
PENCH AREA

District-Chhindwara (Madhya Pradesh).

Plan No. C-1(E)III/GR/554-0694 dated the 29th June, 1994.

Sl. No.	Name of Mouza/Village	Patwari Circle Number	Settlement Number	Tehsil	District	Area in hectares	Remarks
1.	Urdhan	66	24	Parasia	Chhindwara	284.671	Part
2.	Jamunia	66	192	Parasia	Chhindwara	20.650	Part
3.	Bagbatdia	67	369	Parasia	Chhindwara	182.108	Part
4.	Bardiya (Reserve Forest)	—	—	Parasia	Chhindwara	113.311	Part
Total area =						600.74	
hects.						(approximately)	
						or	
						1484.48 Acres	
						(approximately)	

Boundary description :

A—B	Line starts from point 'A' and passes through Village Bagbardia and meets at point 'B'.
B—C	Line passes along the common boundary of village Bagbardia and Bardiya Reserve Forest and meets at points 'C'.
C—D	Line passes through Bardiya Reserve Forest then proceeds through village Jamunia and meets at point 'D'.
D—E	Line passes through village Jamunia and meets at point 'E'.
E—F	Line passes through village Jamunia and proceeds through village Urdhan and meets at point 'F'.
F—G	Line passes along the common village boundary of villages Urdhan and Tumri and meets at point 'G'.
G—H	Line passes along the common village boundary of villages Urdhan and Jhurec and meets at point 'H'.
H—A	Line passes along the common boundaries of Thaonri Reserve Forest and Village Urdhan and Thaonri reserve forest and village Bagbardiya and meets at the starting point 'A'.

[No. 43015/17/94-LSW]

N. BHAGAT, Director

कोयला मंत्रालय

नई दिल्ली, 10 जनवरी, 1995

का. आ. 178.—केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 19 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उन सभी या किन्हीं शक्तियों या कर्तव्यों का, जिनका उक्त अधिनियम की ऐसी धाराओं के अधीन, जो इसमें उपाखण्ड अनुसूची के स्तंभ (2) में विनिर्दिष्ट हैं, प्रयोग या निर्वहन उसके द्वारा किया जा सकता है, उक्त अनुसूची के स्तंभ (4) की तत्त्वानी प्रविष्टि के सामने विनिर्दिष्ट व्यक्तियों द्वारा भी प्रयोग या निर्वहन किया जा सकेगा ;

परन्तु उक्त अधिनियम की धारा 14 की उपधारा (1) के अधीन शक्तियों का प्रयोग और कर्तव्यों का निर्वहन, केन्द्रीय सरकार के पूर्व अनुमोदन के अध्वधीन रहते हुए होगा, जबकि उक्त अधिनियम की धारा 21 के अधीन शक्तियों का प्रयोग और कर्तव्यों का निर्वहन ऐसी परिस्थितियों और ऐसी शर्तों के अधीन यदि कोई होगा, जो महानदी कोलकीण्डम लि., आनंद विहार काम्पलेक्स डाकघर यू. सी. ई., बुर्ला, सम्बलपुर (उड़ीसा) के प्रबंध निदेशक या निदेशक द्वारा लिखित में, केन्द्रीय सरकार के पूर्व अनुमोदन से आदेश द्वारा विनिर्दिष्ट और निदेशित की जाएं ।

अनुसूची

क. अधिनियम संक्षिप्त में समनुदेशन की प्रकृति शक्तियों, या कर्तव्यों से प्रत्यायोजित व्यक्तियों के पदनाम और नामकीय सं. की धारा पते

1	2	3	4	5
1.	14(1)	करार द्वारा नियत प्रतिकर का संवाय	अध्यक्ष और सह प्रबंध निदेशक, मुख्य महाप्रबंधक, महाप्रबंधक, राजस्व का प्रधान, संपदा प्रबंधक, उप प्रधान (राजस्व)/ उप संपदा प्रबंधक, सहायक प्रधान (राजस्व)/ सहायक संपदा प्रबंधक ।	महानदी कोलकीण्डम लि., आनंद विहार काम्पलेक्स, डाकघर, यू. सी. ई. बुर्ला, सम्बलपुर ।

1	2	3	4	5
2.	14(4)	प्रतिकर के संबंध में अधिकरण के समक्ष विवरण	अध्यक्ष-सह-प्रबंध निदेशक, निदेशक, मुख्य महाप्रबंधक, महाप्रबंधक, राजस्व का प्रधान/ संपदा प्रबंधक, उप प्रधान (राजस्व)/ उप संपदा प्रबंधक, सहायक प्रधान (राजस्व)/ सहायक संपदा प्रबंधक ।	महानदी कोलफील्ड्स लि., आनंद बिहार, काम्पलैक्स, डाकघर- यू. सी. ई., बुर्ला, सम्बलपुर
3.	16	अधिकरण के अधिनिर्णय पर ब्याज का संदाय	अध्यक्ष सह प्रबंध निदेशक, निदेशक, मुख्य महाप्रबंधक, महाप्रबंधक, राजस्व का प्रधान/संपदा प्रबंधक, उपप्रधान (राजस्व)/उप संपदा प्रबंधक, सहायक प्रधान (राजस्व)/ सहायक संपदा प्रबंधक ।	महानदी कोलफील्ड्स लि., आनंद बिहार काम्पलैक्स, डाकघर- यू. सी. ई., बुर्ला, सम्बलपुर ।
4.	17	प्रतिकर संदाय	अध्यक्ष सह प्रबंधक निवेशक, निदेशक, मुख्य महाप्रबंधक, महाप्रबंधक/ राजस्व का प्रधान/संपदा प्रबंधक, उप-प्रधान (राजस्व)/उप संपदा प्रबंधक, सहायक प्रधान (राजस्व)/सहायक संपदा प्रबंधक ।	महानदी कोलफील्ड्स लि., आनंद बिहार काम्पलैक्स, डाकघर- यू. सी. ई. बुर्ला, सम्बलपुर ।
5.	21	गुणवत्ता अभिप्राप्त करने की शक्ति	अध्यक्ष-सहप्रबंध निदेशक, निदेशक, मुख्य महाप्रबंधक, महाप्रबंधक, राजस्व का प्रधान/संपदा प्रबंधक, उप प्रधान (राजस्व)/ उप संपदा प्रबंधक, सहायक प्रधान (राजस्व)/ सहायक संपदा प्रबंधक ।	महानदी कोलफील्ड्स लि., आनंद बिहार काम्पलैक्स, डाकघर- यू. सी. ई. बुर्ला, सम्बलपुर ।

[सं. 43022/5/94-एस. एस. डब्ल्यू.]

नरेन्द्र भगत, निदेशक

Ministry of Coal

New Delhi, the 10th January, 1995

S.O. 178.— In exercise of the powers conferred by section 19 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby directs that all or any of the powers or duties which may be exercised or discharged by it under such of sections of the

said Act as are specified in column (2) of the Schedule hereto annexed shall be exercised or discharged also by the persons specified against the corresponding entry in column (4) of the said Schedule :

Provided that the exercise and discharge of powers and duties under sub-section (1) section 14 of the said Act shall be subject to the previous approval of the Central Government whereas the exercise and discharge of powers and duties under section 21 of the said Act shall be in such circumstances and under such conditions, if any, as may be specified and direct by order, with the previous approval of the Central Government, in writing, by the Managing Director or the Directors of the Mahanadi Coalfields Limited, Anand Vihar Complex, Post Office UCE, Burla, Sambalpur (Orissa).

SCHEDULE

Sl. No.	Section of the Act	Nature of assignment in brief	Designation and official address of the persons delegated with powers or duties
1	2	3	4
1	14(1)	Payment of compensation fixed by agreement	Chairman-cum-Managing Director, Mahanadi Coalfields Limited, Anand Vihar Complex, Post Office UCE, Burla, Sambalpur. Directors, Chief General Managers, General Managers, Chief of Revenue/Estate Manager, Deputy Chief (Revenue)/ Deputy Estate Manager, Assistant Chief (Revenue)/ Assistant Estate Manager.
2	14(4)	Statement before the tribunal regarding compensation	Chairman-cum-Managing Director, Mahanadi Coalfields Limited, Anand Vihar Complex, Post Office UCE, Burla, Sambalpur. Directors, Chief General Managers, General Managers, Chief of Revenue/Estate Manager, Deputy Chief (Revenue)/ Deputy Estate Manager, Assistant Chief (Revenue)/ Assistant Estate Manager.
3	16	Payment of interest on award of the Tribunal	Chairman-cum-Managing Director, Mahanadi Coalfields Limited, Anand Vihar Complex, Post Office UCE, Burla Sambalpur. Director, Chief General Manager, General Managers, Chief of Revenue/Estate Manager Deputy Chief (Revenue)/ Deputy Estate Manager, Assistant Chief (Revenue)/ Assistant Estate Manager.
4	17	Payment of compensation	Chairman-cum-Managing Director, Mahanadi Coalfields Limited, Anand Vihar Complex, Post Office UCE, Burla, Sambalpur. Directors, Chief General Managers, General Managers, Chief of Revenue/Estate Manager, Deputy Chief (Revenue)/ Deputy Estate Manager, Assistant Chief (Revenue)/ Assistant Estate Manager.
5	21	Power to obtain information	Chairman-cum-Managing Director, Mahanadi Coalfields Limited, Anand Vihar Complex, Post Office UCE, Burla, Sambalpur. Directors, Chief General Managers, General Managers, Chief of Revenue/Estate Manager, Deputy Chief (Revenue)/ Deputy Estate Manager, Assistant Chief (Revenue)/ Assistant Estate Manager.

CORRIGENDUM

New Delhi, the 12th January, 1995

S.O. 179.—In the notification of the Government of India in the Ministry of Coal S.O. number 2066 dated the 25th July, 1994 published at page 3191 of the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 27th August, 1994. At page 3191

In Schedule, above table, in the left side read "Forest Land".

[No. 43015/13/94-LSW]
N. BHAGAT, Director

स्वास्थ्य और परिवार कल्याण मंत्रालय

नई दिल्ली, 11 जनवरी, 1995

का. आ. 180—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों) के लिए प्रयोग नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में स्वास्थ्य और परिवार कल्याण मंत्रालय के अस्तर्गत आने वाले निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:—

1. राष्ट्रीय क्षयरोग संस्थान, बंगलौर।
2. केन्द्रीय औषध मानक नियंत्रण संगठन, उप अंचल कार्यालय, उत्तर प्रदेश, लखनऊ।
3. केन्द्रीय सरकार स्वास्थ्य योजना, जबलपुर।
4. क्षेत्रीय कुष्ठ प्रशिक्षण एवं अनुसंधान संस्थान, आस्का, गंजम, उड़ीसा।
5. क्षेत्रीय निदेशक, स्वास्थ्य और परिवार कल्याण का कार्यालय, पुणे।
6. केन्द्रीय जालमा कुष्ठ रोग संस्थान, ताजगंज, आगरा।
7. क्षेत्रीय जनजाति आयुर्विज्ञान अनुसंधान संस्थान (भा. आ. अ. परि.), आर एम आर सी, काम्प्लेक्स नागपुर रोड, जबलपुर।
8. राजेन्द्र स्मारक चिकित्सा विज्ञान अनुसंधान संस्थान, आगम कुआँ, पटना।

[संख्या ई. 11012/1/94 रा.भा.कार्या]
शैलजा चन्द्र, संयुक्त सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 11th January, 1995

S.O. 180.—In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use of Official Purposes of the Union) Rule, 1976, the Central Government hereby notifies the following offices under the Ministry of Health and Family Welfare, 80 per cent staff whereof have acquired working knowledge of Hindi:—

1. NATIONAL TUBERCULOSIS INSTITUTE, BANGLORE.
2. CENTRAL DRUG STANDARD CONTROL ORGANISATION, SUB ZONAL OFFICE (U. P.), LUCKNOW.

3. CENTRAL GOVERNMENT HEALTH SCHEME, JABALPUR.
4. REGIONAL LEPROSY TRAINING AND RESEARCH INSTITUTE, ASKA, GANJAM, ORISSA.
5. REGIONAL OFFICE FOR HEALTH AND FAMILY WELFARE, PUNE.
6. CENTRAL JALMA INSTITUTE FOR LEPROSY, TAJ GAJ, AGRA.
7. REGIONAL MEDICAL RESEARCH CENTRE FOR TRIBALS (ICMR), RMRC COMPLEX, NAGPUR ROAD, JABALPUR.
8. RAJENDRA MEMORIAL RESEARCH INSTITUTE OF MEDICAL SCIENCES, AGAM KUAN, PATNA.

[No. E. 11012/1/94-OLI]
SHAILAJA CHANDRA, Jt. Secy.

(स्वास्थ्य विभाग)

गुडि पत्र

नई दिल्ली, 16 जनवरी, 1995

का. आ. 181—केन्द्रीय सरकार द्वारा वंश चिकित्सक अधिनियम, 1948 की धारा 3 के खण्ड (घ) के अधीन डा. अरविन्द कुमार को इस मंत्रालय की समसंख्यक अधिसूचना दिनांक 9-12-1994 तथा गुडि पत्र दिनांक 12-12-1994 के द्वारा राज्य पंजिका के भाग (ख) में पंजीकृत वंश चिकित्सक हेतु रिक्ति पर भारतीय वंश चिकित्सा परिषद् के लिए नामांकित किया गया था। डा. अरविन्द कुमार राज्य पंजिका के भाग (ख) में पंजीकृत नहीं है।

अतः अब केन्द्रीय सरकार पुनः विचार करने के बाद एतद्वारा डा. अरविन्द कुमार के नाम को उक्त अधिसूचना से खोप करती है।

इस मंत्रालय की अधिसूचना संख्या बी. 12013/5/88-पी. एम. एस. दिनांक 24-10-1989 के क्रम संख्या 5 और 6 से संबंधित प्रविष्टियाँ अपरिवर्तित रहेंगी

[संख्या बी. 12013/5/94 पी.एम.एस.]
एच. एन. यादव, अवर सचिव

(Department of Health)

CORRIGENDUM

New Delhi, the 16th January, 1995

S.O. 181.—Whereas Dr. Arvind Kumar was nominated by the Central Government to the Dental Council of India under section 3(f) of the Dentists Act, 1948 vide this Ministry's notification of even number dated 9th December, 1994 and corrigendum dated 12th December, 1994 against a vacancy meant for a Dentist registered in Part 'B' of a State Register.

And whereas Dr. Arvind Kumar is not registered in Part 'B' of a State Register.

Now, therefore, the Central Government hereby on reconsideration deletes the name of Dr. Arvind Kumar from the said notification.

The entries relating to Serial Numbers 5 and 6 of this Ministry's notification No. V. 12013/5/88-PMS, dated 24th October, 1989 remain unchanged

[No. V. 12013/5/94-PMS]
H. N. YADAV, Under Secy.

कृषि मंत्रालय

(कृषि और सहकारिता विभाग)

नई दिल्ली, 13 जनवरी, 1995

का. आ. 182—केन्द्रीय सरकार, बहु-राज्य सहकारी समिति अधिनियम, 1984 (1984 का 51) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा भारत सरकार की अधिसूचना संख्या एल-11012/1/85 एल. एंड एम दिनांक 21 अक्टूबर, 1994 का अधिक्रमण करते हुए केन्द्र सरकार एतद्वारा कृषि मंत्रालय (कृषि एवं सहकारिता विभाग) में संयुक्त सचिव श्री के. एम. चड्ढा को आगामी आदेशों तक सहकारी समितियों के केन्द्रीय पंजीयक के पद पर नियुक्त करती है।

[सं. एल. 11012/1/85-एल. एंड एम.]

सी. एस. श्रीनिवासन, उप सचिव

MINISTRY OF AGRICULTURE

(Department of Agriculture & Cooperation)

New Delhi, the 13th January, 1995

S.O. 182.—In exercise of the powers conferred by sub-section (1) of Section 4 of the Multi-State Co-operative Societies Act, 1984 (51 of 1984) and in supersession of the Notification of the Government of India No. L-11012/1/85-L&M dated the 21st October, 1994, the Central Government hereby appoints Shri K. M. Chadha, Joint Secretary (Credit and Co-operation), in the Ministry of Agriculture, Department of Agriculture and Cooperation, as the Central Registrar of Co-operative Societies, until further orders.

[No. L-11012/1/85-L&M]

C. S. SRINIVASAN, Dy. Secy.

वस्त्र मंत्रालय

नई दिल्ली, 6 जनवरी, 1995

का. आ. 183—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम 4 के अनुसरण में वस्त्र मंत्रालय के अंतर्गत आने वाले निम्नलिखित कार्यालय को, जिसमें 80% कर्मचारी-बृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :-

प्रमाणन केन्द्र, केन्द्रीय रेशम बोर्ड,

32, राधा रानी सिन्हा रोड,

भागलपुर - 812001 (बिहार)

[सं. ई - 11016/2/94-हिन्दी]

चरन दास, उप सचिव,

MINISTRY OF TEXTILES

New Delhi, the 6th January, 1995

S.O. 183.—In pursuance of sub-rule 4 of Rule 10 of the Official Language (Use for Official purposes of the Union) Rule, 1976 the Central Government hereby notifies the fol-

lowing office under the Ministry of Textiles whereof more than 80 per cent staff have acquired working knowledge of Hindi:—

Certification Centre, Central Silk Board,
32, Radha Rani Sinha Road,
Bhagalpur-812001 (Bihar).

[No. E-11016/2/94-Hindi]

CHARAN DASS, Dy. Secy.

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 22 दिसम्बर, 1994

का. आ. 184—चलचित्र (प्रमाणन) नियमावली, 1983 के नियम-9 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (2) द्वारा प्रदत्त शक्तियों का उपयोग करते हुए केन्द्रीय सरकार श्री जी. राजशेखरन, भा. प्र. से. (केरल : 83.) को 3700-125-4700-व. रो. -150-5000 रुपये के वेतनमान में सामान्य प्रतिनियुक्ति शर्तों पर 12 दिसम्बर, 1994 (पूर्वाह्न) से 4 वर्ष अथवा अगले आदेशों जो भी पहले हो, तक के लिए क्षेत्रीय अधिकारी, केन्द्रीय फिल्म प्रमाणन बोर्ड, मद्रास के रूप में नियुक्त करती है।

[का. सं. 801/6/94 एफ (सी)]

एम. एम. सेठी, डेस्क अधिकारी

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 22nd December, 1994

S.O. 184.—In exercise of the powers conferred by sub-section (2) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with Rule 9 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Shri G. Rajasekharan, IAS (KL : 83) as Regional Officer, Central Board of Film Certification, Madras in the pay scale of Rs. 3700-125-4700-EB-150-5000, on usual deputation terms, with effect from 12th December, 1994 (forenoon) for a period of 4 years or until further orders, whichever is earlier.

[F. No. 801/6/94-F(C)]

M. S. SETHI, Desk Officer

नई दिल्ली, 12 जनवरी, 1995

का. आ. 185—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में सूचना और प्रसारण मंत्रालय के निम्नलिखित कार्यालय को जिसके 80% से अधिक कर्मचारी बृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :-

गीत एवं नाटक प्रभाग, चण्डीगढ़।

[संख्या ई-11011/1/93 - हिन्दी]

प्रेम कृष्ण मोरावार, निदेशक (राजभाषा)

MINISTRY OF INFORMATION & BROADCASTING

New Delhi, the 12th January, 1995

S.O. 185.—In pursuance of Sub-rule (4) of rule 10 of the Official Languages (use for official purposes of the Union) Rules, 1976, the Central Government hereby notify the following office of the Ministry of Information & Broadcasting, the Staff whereof more than 80 per cent have acquired working knowledge of Hindi:—

Song and Drama Division, Chandigarh.

[No. E-11011/1/93-Hindi]

P. K. GORAWARA, Director (O.L.)

श्रम मंत्रालय

नई दिल्ली, 30 दिसम्बर, 1994

का. अ. 186.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इन्डिय सी. एल. के प्रवन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-12-94 को प्राप्त हुआ था।

[संख्या एन-21012/46/86 डी III (बी)—IV (बी)]

राजा लाल, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 30th December, 1994

S.O. 186.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W. C. Ltd. and their workmen, which was received by the Central Government on the 29-12-94.

[No. L-21012/46/86 D. III (B)/IV (B)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case Ref. No. CGIT/LCR(10)/1988

BETWEEN

Shri Anul Haque, Mechanic B Grade represented through the Secretary, Surguja Colliery Labour Union (AITUC), Chirimiri Area Branch, P.O. West Chirimiri Colliery, District Surguja (M.P.).

AND

The Dy. Chief Mining Engineer, Kurasia Group of mines, P.O. Kurasia Colliery, District Surguja (M.P.).

Presided in : By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman : Shri Arvind Srivastava, Advocate.

For Management : Shri A. K. Shastri, Advocate.

INDUSTRY : Coal Mines

DISTRICT : Surguja(M.P.)

AWARD

Dated : December 8, 1994

This is a reference made by the Central Government in the Ministry of Labour vide its Notification No. L-21012 (46)/86-D.IIIB/IV.B dated 4-1-1988 for adjudication of the following industrial dispute :

SCHEDULE

"Whether the action of the Management of Kurasia Group of mines of Chirimiri Area in superseding Shri Anul Haque, Mechanic Grade-B to the post of Mechanic Grade-A by his juniors S/Sri S.K. Rai, Sadhan Mistry, Ganpati, Anand Singh, Vijayan Rai Chowdery, P.B. George and B.C. Chabra, is justified ? If not, to what relief the concerned workman is entitled ?"

2. Admitted facts of the case are that the workman, Shri Anul Haque, was appointed as Mechanic Grade B in Cat. IX by the Executive Engineer of the Kurasia Colliery of Excavation Division, District Surguja vide order dated 2-3-1961. It is also not in dispute that Shri Anul Haque worked as Mechanic over 27 years in the Kurasia Colliery and the management has promoted mechanics juniors to Shri Anul Haque from Mechanic Gr. B to Mechanic Gr. A viz. S/Shri S.K. Rai, Sadhu Mistry, Ganapati Amola Rai, Anand Singh, Bijan Rai Choudhary and others and that Shri Anul Haque is still working as Mechanic Gr. B

3. The workman in his statement of claim has alleged that he has worked for over 27 years and his work was all along satisfactory and that the management on the false pretext denied the promotion to the workman and his alleged juniors were promoted. It is contended by the workman that the act of the management in not giving the promotion to him and his supersession is unjustified, illegal and discriminatory and it amounts to unfair labour practice.

4. Case of the management is that the Central Government has wrongly referred the dispute under Section 10 of the I.D. Act and the Government is not entitled to look into the issue whether the workman was wrongly superseded. The management has alleged that the workman, Shri Anul Haque, was not found fit in Trade Test and his juniors were promoted on the basis of the recommendation of the duly constituted D.P.C. and D.P.C. considered the case of Shri Anul Haque. The Management has contended that the reference is bad in law. The workman is not entitled for any relief.

5. After the parties filed the statement of claim and the written statement, issues were framed and the parties were directed to lead evidence on the issue. Parties have not led any oral evidence in support of their respective claims.

6. It is settled law that the promotion of workmen from a lower to a higher grade is a managerial function and the promotion depends on the comparative merit, personality initiative and eligibility of the workman. It is settled law that the industrial tribunal should not interfere in matter of promotion unless power has been improperly exercised or there is case of malafides or victimisation and unfair labour practice is made out against the management in considering the case of the workman for promotion. In case of All India Reserve Bank Employees Association Vs. Reserve Bank of India (AIR 1966 SC P. 305) it is observed that the promotion is a management's function. The matter of internal administration where the employer has exclusive jurisdiction to make its decision and in case of unfair labour practice the issue of promotion claim of the workman is considered by the Tribunal.

7. The workman has failed to pass Trade Test and the D.P.C. has found him not fit for promotion. From the perusal of the statement of claim it is clear that the workman has not spelt out those grounds which constitute malafides or victimisation or unfair labour practice by the management. In the similar case where the workman was not promoted from Grade B to Grade A after evaluation of work of the workman the Hon'ble Supreme Court in case of India General Navigation & Railway Co. Ltd. Vs. Employees 1961-II-LLJ P.372 held that the Tribunal has no jurisdiction to consider the issue of promotion. Consequently, it cannot be said that the action of the management in superseding Shri Anul Haque on the post of Mechanic Gr. A by his juniors is unjust and improper, reference is, therefore, answered in favour of the

management and the workman is not entitled for any relief from this Tribunal. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 30 दिसम्बर, 1994

का. आ. 187—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू सी एल के प्रबन्धन के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बम्बई नं I के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-12-94 को प्राप्त हुआ था।

[संख्या एल-22012/176/90 आई आर(सी-II)]
राजालाल, डेस्क अधिकारी

New Delhi, the 30th December, 1994

S.O. 187.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bombay No. I as shown in the Annexure in the industrial dispute between the employers in relation to the management of W.C. Ltd. and their workmen, which was received by the Central Government on the 29th December, 1994.

[No. L-22012/176/90-IR (C-II)]
RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1, BOMBAY

PRESENT:

Shri Justice R. G. Sindhakar, Presiding Officer.

Reference No. CGIT-80 of 1990

PARTIES:

Employers in relation to the management of Durgapur
Rayatwari Colliery of M/s. WCL.

AND

Their Workmen.

APPEARANCES:

For the Management—Shri Prasad, Advocate.

For the Workmen—Shri Bandiwar.

INDUSTRY: Mining. STATE: Maharashtra.

Bombay, dated the 13th day of December, 1994

AWARD

Government of India Ministry of Labour has made reference for adjudication under Section 10(1)(d) of the Industrial Disputes Act and read with 2A of the Industrial Disputes Act. The dispute is mentioned in the schedule:

SCHEDULE

"Whether the order of dismissal issued by the superintendent of Mines/Mine's Manager Durgapur Rayatwari Colliery of M/s. WCL. Dt. Chandrapur (MS) w.e.f. 23rd November, 1989 against Shri Bajirao Vitthu Poinkar & Shri Shankar S/o Sampat Khobragade. Loaders of Durgapur Rayatwari Colliery is legal & justified? If not, to what relief the workmen concerned are entitled to?"

2. Statement of claim has been filed by the President Bhartiya Kolla Khadan Mazdoor Sangh (BMS). It is stated therein that the two loaders have been serving for over 8-9 years

without blemish and any adverse entry in the service book. Alleging that they committed misconduct under the provisions of standing order No. 13B5 and 13B6 by which they were governed they were given a chargesheet on 9th November, 1989. Explanation was called for within 48 hours and they were suspended with immediate effect. Inquiry Officer was appointed and Management's representative was Shri Narendra Kumar Seth. The charge-sheet was replied on 15-11-1990 but that was not found satisfactory.

3. The inquiry officer commenced inquiry on 18th November, 1989 and the loaders were informed that if they did not attend inquiry on that day series of dates were mentioned therein as dates of hearing of the proceeding. They applied for permission to be represented by office bearer of Union's office Shri Tushardev Poojari Overman Sasti Colliery but that was not allowed on the ground that he was not working in the same unit where the delinquents were serving and therefore not a 'co-worker'. Time of 8 day was requested for to get another co-worker to defend but that was not accepted and hence the application was sent by registered post. The inquiry was concluded at the back of the delinquent and report submitted. It is contended that reasonable opportunity to defend was not given before dismissing them. The copy of the inquiry report was not served alongwith the show cause notice regarding proposed punishment. Opportunity to cross-examine was not given and there was collusion between inquiry officer and the employer.

4. Grievance to the Assistant Labour Commissioner was made and on receipt of failure report Government of India made the above reference. Prayer for setting aside the inquiry and the order of dismissal and direction of reinstatement with full back wages and continuity of service is sought.

5. The Management has filed written statement. Admitting that these 2 employees were serving as loaders at Durgapur Rayatwari Colliery and further admitting that after departmental inquiry they were dismissed the Management denies that there was collusion between disciplinary authority and the inquiry officer and that no reasonable opportunity was given to the delinquent for defending themselves. The case of the Management is that after fair proper inquiry in accordance with the standing orders the dismissal order came to be passed. It is submitted that the delinquents submitted reply to the charge sheet on 15th and they were informed that the explanation was not satisfactory. Since however reply was not received within the stipulated time inquiry Committee was constituted on 14th November, 1989.

6. It is further submitted that when the inquiry started on 18th November, 1989 after intimation of the same was given to the delinquents they appeared and wanted to be represented by Shri Tushar Deo Poojari a worker of another colliery called Sasti. They could take the assistance of co-worker from Durgapur Rayatwari Colliery. Since Sasti Colliery was governed by different standing orders and the intention appeared to be to delay by taking the assistance by Shri Tushar Deo Poojari and that was not permissible and therefore not granted. Full opportunity was given but the same was not taken as the delinquents remained absent on the date of the inquiry. There was no undue haste nor colourable exercise of power. Prayer for, therefore, answering the reference in favour of the employers and against the employees. Rejoinders have filed by both the sides.

7. The fact that there was an inquiry proceeding the order of dismissal cannot be disputed. The papers of inquiry have been produced and they show that chargesheet was given and since reply was not received in time inquiry was directed and held. Report was submitted and it was accepted by the Competent Authority. However what is contended is that the inquiry is vitiated and the first charge is that there was a collusion between the inquiry officer and the disciplinary authority. There is no material in support of that collusion. The fact that the inquiry officer proceeded to hold the inquiry on the 20th in the absence of the delinquent is no ground for holding that there was any such collusion.

8. The second charge is that they were not allowed to be represented by Shri Devendra Poojari. Admittedly he was not working in the colliery in which these workmen were working. His colliery was governed by different standing orders. He could not be termed a co-worker because the standing orders provided that the delinquents could be defended by co-worker. A w . . . w . . . a . . . y

is not and cannot be a co-worker within the meaning of co-worker mentioned in the standing order. It is stated on behalf of the employers that after delinquents were informed they left the place of inquiry and did not appear on the appointed date namely 20th of which notice was already given to them and also published in the local newspaper. It is contended on behalf of the workmen that they requested the inquiry officer by letter dated 20th to give them 8 days time. That was received on 23rd as it was sent by registered post and by that time the inquiry was concluded and report submitted. It was not, therefore, possible to grant the request and adjourned the proceeding.

9. It is then contended that there was undue haste in holding and concluding the inquiry. If it was an established case that on 20th a request for adjournment was received and rejected then it could have been urged that there was haste but that case is not established by any material. All that is produced is a letter dated 20th sent by registered post and which has been admittedly received on 23rd. The grievance that they were not allowed to cross-examine is only to be stated before it is rejected. If they had remained present they could have exercised their right of cross-examination. That they did not do is evident from the report of the inquiry officer and the proceedings of the inquiry. In fact on the 18th itself as the report shows they left the place of inquiry and took back their letter in spite of the fact that the inquiry officer told that their letter will be recorded in the inquiry proceedings as being submitted by the workers.

10. In my opinion the grounds urged in support of the challenge to the action of dismissal are not established and order cannot be faulted. Award accordingly.

R. G. SINDHAKAR, Presiding Officer

नई दिल्ली, 30 दिसम्बर, 1994

का. भा. 188—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इन्स्यू सी एल के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, प्रमुख में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-12-94 को प्राप्त हुआ था।

[संख्या एल-22012/315/89 आई आर(सी II)]

राजालाल, हेड ऑफ अधिकारी

New Delhi, the 30th December, 1994

S.O. 188.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W. C. Ltd. and their workmen, which was received by the Central Government on the 20th December, 1994.

[No. L-22012/315/89-IR(C-II)]
RAJA LAL Desl. Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R) (97)/1990

BETWEEN

Shri N. R. Durbude and 17 others (as per list below)
represented through the General Secretary, Koyla
Shramik Sabha (HMS) Near Mahakali Mandir, Post
Bubupeth, District Chandrapur (MS.).

AND

The Sub-Area Manager, Durgapur Open Cast of M/s.
W.C.L., Post Durgapur, District Chandrapur (MS).

PRESIDED IN: By Shri Arvind Kumar Awasthy.

APPEARANCES:

For Workmen: Shri S. K. Rao, Advocate.

For Management: Shri A. K. Shastri, Advocate.

INDUSTRY: Coal Mines. DISTRICT: Chandrapur (MS).

AWARD

Dated, December 9, 1994

This is a reference made by the Central Government in the Ministry of Labour vide its Notification No. L-22012 (315)/89-IR(Coal-II) dated 30-3-1990 for adjudication of the following dispute:

SCHEDULE

"Whether Shri N. R. Durbude and 17 other workmen whose list is enclosed (Annexure-A) are entitled to get the promotion by the Management of Sub-Area Manager, Durgapur Opencast of W.C. Ltd.? If so, to what relief the workmen concerned are entitled?"

ANNEXURE-A

Name of those
workers who did
get promotion.

1. Shri N. R. Durbude
2. Shri M. R. Agarkar
3. Shri V. K. Choudhary
4. Shri R. J. Naidu
5. Shri R. R. Navle
6. Shri H. N. Dhargave
7. Shri V. L. Lande
8. Shri Shri D. G. Vochate
9. Shri R. D. Chouhan
10. Shri M. Shasikumar
11. Shri S. A. Choudhary
12. Shri S. K. Teore
13. Shri P. H. Muthalkar
14. A. G. Deshmukh
15. Shri K. N. Katre
16. Shri K. W. Potwar
17. Shri A. Z. Patrange
18. Shri A. M. Rai

Name of workers
whose colleagues
have been promoted.

1. Shri M. R. Khupure
2. Shri S. M. Shendre
3. Shri M. R. Khupure
4. Shri D. V. Bandiwar
5. Shri A. G. Mudkundwar
6. —do—
7. Shri J. B. Ramteke
8. Shri W. G. Devgadkar
9. Shri R. J. Deshmukh
10. Shri A. T. Tamase
11. Shri F. A. Yende
12. Shri A. R. Jable
13. Shri N. S. Bundela
14. Shri
15. Shri R. J. Deshmukh
16. Shri A. T. Tamase
17. Shri V. M. Borikar
18. Shri R. J. Deshmukh

2. The case of the management is that the workmen were not suitable candidates for promotion and promotion being the managerial function cannot be claimed as of right by the workmen. It is further alleged by the management that duly constituted D.P.C. considered the case of the workmen

for promotion and after scrutinising the case of the workmen they were not found for promotion.

3. Management has prayed to hold that the reference is bad in law and the action of the management is just in not promoting the workmen.

4. Notice was issued to the workmen to file the statement of claim on 5-4-90 but the workmen do not appear or file the statement of claim. Similarly the workmen were informed to appear and file the statement of claim on 25-6-90, 3-8-90, 13-2-91, 24-4-91, 9-1-91, 8-7-92 and 5-10-1994 for appearance and filing the statement of claim. The workmen have not filed the statement of claim or produced any document to show that the act of the management in depriving them from promotion was improper and unjust.

5. From the early days the Tribunals and the Supreme Court have recognised the position that promotion is a management function being a matter of internal administration where the employer has exclusive jurisdiction to make its decision. (Please see) Indian General Navigation and Railway Co. Ltd. Vs. Employees 1961-II-LLJ p. 372(SC). The claim of the workmen for promotion can only be considered if the case of mala fide, victimisation or unfair labour practice is made out by the workmen. There being no evidence against the management about the unfair labour practice the right of the workman for promotion cannot be considered and the reference is liable to be answered in favour of the management.

6. Consequently, the reference is answered in favour of the management. No order as to costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 30 दिसम्बर, 1994

का. मा. 189—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इन्ड्यूसी एल के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचवट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-12-94 को प्राप्त हुआ था।

[संख्या एल-22012/104/89 आई आर (सी II)]

राजालाल, इस्क अधिकारी

New Delhi, the 30th December, 1994

S.O. 189.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W. C. Ltd. and their workmen, which was received by the Central Government on the 29-12-1994.

[No. L-22012/104/89-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-1 ABOUR COURT, JABALPUR(MP)

Case No. CGIT/LC(R)(186)/1989

BETWEEN

Shri Mohd. Israil, represented through the General Secretary, M.P K.K.M.P. (HMS), Jinnardeo, Post Jinnardeo, District Chhindwara (MP).

AND

The Manager, Shivpuri Open Cast Mine of W.C.L. Post Sigara via Parasia, District Chhindwara (MP).

PRESIDED IN : Shri Advind Kumar Awasthy.

APPEARANCES :

For Workman : Shri G. N. Shah.

For Management : Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mine. DISTRICT : Chhindwara (MP).

AWARD

Dated, December 8, 1994

This is a reference made by the Central Government in the Ministry of Labour vide its Notification No. 22012(104)/89-IR(C-II) dated 26th September, 1989 for adjudication of the following dispute :—

“Whether the action of the Manager, Shivpuri Open Cast Mine of W. C. Ltd. in dismissing Sri Mohd. Israil, Clerk from the services from 1-8-88 is fair and justified? If not, to what relief the workman concerned is entitled?”

2. Admitted facts of the case are that the workman Sri Mohd. Israil was working as a Clerk in Shivpuri Open Cast Mine of W. C. Ltd. and a charge was issued against him and it was held that Shri Mohd. Israil has made the manipulation in date of birth of one Shri K. P. Choudhary in Form B Register.

3. The workman has filed the statement of claim and alleged that the manipulation in Form B Register regarding the date of birth of Shri K. P. Choudhary was not done by him and that the authority illegally removed him from service.

4. The statement of claim and the written statement was filed by the management along with documents.

5. Parties entered into Settlement and the workman was taken in service. Following are the terms of settlement :—
Terms of Settlement

1. It is agreed by the management to reinstate Shri Mohd. Israil as Clerk Gr. II in WCL Pench Area as Clerk Gr. II. He shall report for duty to Sub-Area Manager Thingara Mathani within one month from the date of settlement.
2. The period of Absence from the date of dismissal to the date of joining will be treated as dies-non i.e. No work no pay.
3. He shall be deemed to be in continuous service for the limited purpose of Gratuity only but without any back wages or any monetary benefits for the absence/idle period from the date of dismissal to the date of his reinstatement.
4. On reinstatement, Shri Mohd. Israil will be kept on probation for a period of one year during which period his performance and conduct will be closely watched. An assurance of good performance and conduct will be furnished by the workman in writing before joining the duties.
5. The union/workman agreed to drop all other claims/benefit in respect of the matter under dispute.
6. The union/workman agreed not to raise any dispute relating to this issue individually or through any union at any forum.
7. This settlement settles the dispute fully and finally and it shall not be treated as precedent in any other case.
8. The parties agreed to file this compromise settlement before Presiding Officer, CGIT, Jabalpur and request for consent award in terms of

6. The aforementioned terms of settlement are just and proper. No dispute award is passed in terms of the aforesaid settlement. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 3 जनवरी, 1995

का. आ. 190—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. I बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-12-94 को प्राप्त हुआ था।

[संख्या एल-12012/28/94 आई आर (बी I)]
राजलाल, डेस्क अधिकारी

New Delhi, the 3rd January, 1995

S.O. 190.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal No. 1, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on the 29-12-1994.

[No. L-12012/28/94-IR(B.I)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, BOMBAY

PRESENT:

Shri Justice R. G. Sindhakar, Presiding Officer.

Reference No. CGIT-42 of 1994

PARTIES:

Employers in relation to the management of State Bank of India.

AND

Their workmen.

APPEARANCES:

For the Management: No appearance

For the Workman: No appearance

INDUSTRY: Banking. STATE: Maharashtra

AWARD

Government of India, Ministry of Labour has by letter dated 13th July, 1994 referred dispute mentioned in the schedule for adjudication under section 10(1)(d) read with 2k of the Industrial Disputes Act, 1947:

SCHEDULE

"Whether the action of the management of State Bank of India, Dondicha Branch, in discharging Shri R. N. Patil, clerk-cashier from service w.e.f. 25-7-91 is justified? If not, what relief is the said workman entitled to?"

2. Notice of this was sent to the party and the same has been returned by the postal authorities duly served. In spite of that neither parties remained present on 30th of September,

1994. Matter came to be adjourned to 0th October, 1994 for following statement of claim and on which date also they remained absent. Yet one more opportunity was given to the parties and the matter has been fixed today for statement of claim and today also neither of the parties are present and there is no statement of claim filed. In the circumstances it is not possible for me to find out the basis of claim made by the delinquent employee namely Shri R. N. Patil, clerk-cashier and it will not be also possible for other side namely the Management to justify its action in the absence of any specific challenge to the order of discharge. In the circumstance reference is disposed of and award accordingly.

R. G. SINDHAKAR, Presiding Officer

नई दिल्ली, 3 जनवरी, 1995

का. आ. 191—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-12-1994 को प्राप्त हुआ था।

[संख्या एल-12012/241/86 डी II(ए)आई आर(बी)]
राजलाल, डेस्क अधिकारी

New Delhi, the 3rd January, 1995

S.O. 191.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on the 30-12-94.

[No. L-12012/241/86. D. II(A)/IR(B. I)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU
MADRAS

Tuesday, the 27th day of September, 1994

PRESENT:

THIRU K. PONNUSAMY, M.A.B.L.

Industrial Dispute No. 58/87

(In the matter of the dispute, for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the Workman and the Management of State Bank of India, Region III, Colmbatore).

BETWEEN:

Shri S. Govindarajulu,
No. 8, Car Street, Nawpet,
Krishnagiri-635001.

AND

The Chief General Manager,
State Bank of India,
Local Head Office 21, Rajaji Salai,
Madras-600 001.

REFERENCE:

Order No. L-12012/241/86-D.II(A), dated 1-5-87,

Ministry of Labour, Govt. of India, New Delhi.

This dispute after restoration coming on for final hearing on Tuesday, the 9th day of August, 1994 upon perusing

the reference, Claim and Counter statements and all other material papers on record and upon hearing the arguments of Thiru N. Jayabalan, Advocate appearing for the workman, and of Thiru R. Sreekrishnan, Advocate appearing for the Management and this dispute having stood over till this day for consideration this Tribunal made the following :

AWARD

This reference has been made for adjudication of the following issue:

"Whether the action of the Management of State Bank of India, Region-III, Coimbatore in relating to their Krishnagiri Branch in dismissing Shri S. Govindarajulu, Clerk from service with effect from 26-8-1985 is justified? If not, to what relief is the concerned workman entitled?"

The claimant has filed the claim petition praying to set aside the order of dismissal dated 26-8-85 by the respondent and to pass an order of reinstatement in the service with full back wages.

2. The claim of the claimant briefly stated is as follows :

The claimant was appointed as Clerk on 9-5-80 in the State Bank of India. He was confirmed in the bank's service as per the order dated 5-11-80 with effect from 9-11-80. He has put in an unblemished record of service till the order of dismissal dated 26-8-85 was issued with false and fabricated allegations. He worked at various branches and finally transferred to Krishnagiri branch. He was discharging his duties to the satisfaction of the higher authorities. While he was working at Krishnagiri branch, he found that the Branch Manager P. N. Shivagnanam was very indulgent and soft cornered to the particular staff Smt. Kalavathy and that the Branch Manager were acting in a biased and unjustified manner. The Branch Manager was always allotting a lighter seat to the said Kalavathy. The claimant used to question that act of the aforesaid Branch Manager in allotting higher seat to Kalavathy. The said Branch Manager and Kalavathy have estranged powers, was protested by the claimant. The Branch Manager used to ask the claimant to do over time work without over time wages and it was resisted by the claimant. The Branch Manager and Kalavathy became hatred towards him and developed ill feeling against him. The Branch Manager and Kalavathy seemed to have not tolerated his hatredness and objection. Both of them appeared to have colluded and in connivance of other officers have worked out the scheme to take a revenge on him. The respondent came forward with the false and frivolous allegation that on 4-1-85 he has presented a forged withdrawal slip for Rs. 1,800 purported to be drawn on Savings Bank Account No. 4900 of Srinivasan and acknowledging the same and returned the same when the teller confronted the claim and on 10-11-84 he had fraudulently obtained payment of another forged savings bank account withdrawal slip for Rs. 800 and the branch teller purported to have been drawn on the same Savings Bank Account and the forged withdrawal slip was missing from the day's voucher and the same is admitted by him. On the basis of the said false allegation, he was placed under suspension on 19-1-85. Charge memo dated 28-2-1985 was served on him. He sent a detailed reply on 18-3-85 rebutting the false allegations. The Management initiated disciplinary proceedings against him. Sellamuthu was appointed as Enquiry Officer. In the enquiry he was not allowed to put questions to the witnesses which were inconvenient to them but vital to prove out the fact. The Enquiry Officer danced to the tune of the Management and acted in most biased manner. He submitted a written explanation pointing out the various lapses lead to inconsistency and the contradictions in the evidence of the Management's witnesses. To prove the falsity and improbability of alleged incidents and unfortunately the Enquiry Officer has turned his closed eyes and mind and found all the charges against the claimant proved. The Enquiry Office gave the findings without applying his mind, and reasoning, but mechanically has given the findings to enable the Management to attain its object. The findings of the Enquiry Officer is biased and perverted and without any legal basis. The Management accepted the findings of the Enquiry Officer and dismissed the claimant from service. The Enquiry Officer failed to consider the discrepancies and contradictions in the evidence of the witnesses examined on the side of the Management. The findings cannot be presumed and should be proved beyond reasonable

doubt. This legal principle was given a go-bye by the enquiry officer. He preferred an appeal to the Chief Regional Manager against the order of dismissal. Unfortunately the Appellate Authority has also confirmed the order of the disciplinary authority. His conciliation proceedings also failed.

3. The defence of the respondent briefly stated is as follows :

The claimant committed acts of grave misconduct and was dismissed from service. Charges were proved by legal evidence. The inconsistencies and contradictions pointed out by the claimant did not affect the case, or the respondent. The domestic enquiry conducted by the Enquiry Officer is just and proper. The findings of the Enquiry Officer is just and proper and it is not perverse and biased. The enquiry officer has given a reasoning for his findings and has applied his mind in giving his findings, with regard to the charges framed against the claimant, the punishment imposed by the Disciplinary Authority is just and proper. The Appellate Authority did not find any reason to review the decision of the Disciplinary Authority and dismissal the appeal and confirmed the punishment, after giving another opportunity to the claimant to prove his innocence. The Appellate Authority perused and reassessed all the enquiry papers and all other relevant materials and after applying his mind confirmed the order of dismissal. The claimant has cooked up story of collusion between the Branch Manager and Smt. Kalavathy. At no point of time, the Branch Manager was hostile to the claimant and bore any ill-will towards him. The relationship between the claimant and the Branch Manager was normal. The blames made by the claimant, are after thought and with ulterior motive. There is no proof of the alleged illwill of the Branch Manager of the bitter feelings of Kalavathy against the claimant, and his allegations are baseless and without any substance. The respondent is a institution where employees have to maintain the highest degree of discipline, trust, integrity and honesty. If an employee who forges withdrawal slip and draws money from the constituents of the respondent, the public will lose confidence in the respondent. Anyone who betrays the trust reposed in him shall have to be dealt with firmly and with a deterrent punishment. The allegations that the Enquiry Officer danced to the tune of the respondent and acted in a most biased manner and did not allow the claimant to put questions to the witnesses to prove his innocence is false. The domestic enquiry was conducted in the prescribed manner, according to the principles of natural justice and full and fair opportunity was given to the claimant, to defend himself. The claimant had duly participated in the enquiry proceedings and cross-examined the prosecution witnesses. The allegation that the Enquiry Officer has turned his closed eyes and mind and has not applied his mind and mechanically found all the charges proved against the petitioner is false. Findings of the Enquiry Officer is correct. There are no contradictions or inconsistencies in the evidence of the prosecution witnesses. The Enquiry Officer recorded the evidence properly and applied his mind to the facts and circumstances of the case. The claimant admitted his guilt before the Branch Manager, the Teller and paid the money on both the occasions to the Manager P.B. Division. Enquiry Officer has correctly assessed the facts of the case in holding the claimant guilty. The evidence against the claimant was over-whelming. There are no contradictions in the evidence of the Management's witnesses. All the witnesses spoke about the involvement of the claimant in fraudulent withdrawals and he admitted his guilty at the time when he was interrogated by the Branch Manager in the presence of witnesses. The claimant has confessed during interrogation that he had withdrawn Rs. 1,800 on 10-11-84 from S.B. A/c. 4992 but he refused to give any statement in writing admitting his guilt. The withdrawal slip of Rs. 1,800 presented by the petitioner was handed over to the Manager for safe custody. The statement given by the Teller, Manager P.B. Division the Officer in the P.B. Division, and Accountant would corroborate the confession made by the claimant during the interrogation. The account holder has given a letter dated 2-1-85 that he had not withdrawn any amount, and there was a wrong debit of Rs. 800 in his account. Kalavathy has spoken about her parting with of Rs. 1,800 to the claimant. The teller had acted in a good faith believing that the encashment would be genuine one, since the claimant is a co-employee and she had paid the

money to him immediately after he presented the withdrawal slip. The examination of the account holder is not at all required, in view of the clear proof of the misconduct by the claimant and other satisfactory evidence adduced before the Enquiry Officer. The claimant could have examined any witnesses on his side, and he has not done so. So, the case is very clear, that the claimant has interpolated and destroyed the withdrawal slip which was missing right from the date it was paid. The efforts taken by the respondent's officials to trace it out, had gone in vain and everyone of them became highly conscious and alert while honouring any kind of instruments after this incident. It was only the second fraudulent withdrawal by the claimant could be detected immediately. Both the charges were clearly established in the enquiry proceedings. The respondent had considered all aspects of the matter and awarded the punishment in accordance with the provisions of the Act and after taking into consideration the gravity of the charges proved. Misconduct committed by the claimant was very serious and grave. The punishment awarded to the claimant is proper and commensurate with the gravity of the misconduct committed by him. There are no grounds warranting for interference with the decision arrived at by the Disciplinary Authority and confirmed by the Appellate Authority.

4. The Point for determinations :

"Whether the action of the Management of State Bank of India, Region III, Coimbatore in relating to the Krishnagiri in dismissing Shri S. Govindarajulu from service with effect from 26-8-85 is justified? If not, to what reliefs the concerned workman entitled to?"

5. The Point:—The petitioner was a clerk in the respondent's branch at Krishnagiri. During the relevant period, Smt. Kalavathy, worked in the above said branch is an officiating teller, during the relevant period. Customer Srinivasan had a Savings Bank A/c. No. 4994 is made out by Ex. M.13. Charges were levelled against the petitioner that on 10-11-84 he produced a withdrawal slip forging the signature of the Account holder Srinivasan and on 4-1-1985 he produced a forged withdrawal slip for Rs. 1,800 and thereby he committed a grave misconduct. When usually questioned, he returned Rs. 800 and Rs. 1,800. The said Srinivasan preferred a complaint to the Branch Manager that he did not withdraw Rs. 800 and on 10-11-84 issue cheque to nobody and requested the Branch Manager to settle his account is borne out by Ex. M.12. Withdrawal slip regarding Rs. 800 is missing. Even assuming that the initials in the aforesaid 2 withdrawal slips and escaped from the clutches of the law. The petitioner was given charge sheet, is established by Ex. M-1. His explanation was called for. He submitted his explanation. He submitted his explanation rebutting the charges levelled against him. He submitted his explanation is evidenced by Ex. M.2. The petitioner was placed under suspension pending domestic enquiry. P. Sellamuthu was appointed as Enquiry Officer. The Enquiry Officer conducted the domestic enquiry is substantiated by Ex. M.3. The petitioner pointed out certain discrepancies and contradictions in the evidence of witnesses of the Management is disclosed by Ex. 4. The Enquiry Officer gave his findings that the petitioner is guilty of the charges framed against him, is borne out by Ex. M.5. The findings of the Enquiry Officer is based on records and evidence. The domestic enquiry conducted by the Enquiry Officer is fair and proper. His findings is not biased or prejudicial. The Enquiry Officer has no bias or no motive against the petitioner. The petitioner was given full opportunity to cross-examine the witnesses examined on the side of the respondent and examined his witnesses to prove his innocence. The findings of the Enquiry Officer is not vitiated by irregularity, impropriety or mistake. The principles of natural justice, equity, good conscience, and the procedure prescribed by the Act are duly complied with, in the domestic enquiry conducted by the Enquiry Officer. If the findings of the Enquiry Officer are perverse, this Tribunal has got jurisdiction to interfere with it. The findings of the Enquiry Officer is neither perverse nor biased. The finding of the Enquiry Officer is just, fair proper and correct.

6. The Second Show Cause Notice was served on the petitioner to submit his explanation as to why he should not be dismissed from service and personal hearing was given to the petitioner for the proposed punishment, is borne out by M.6 and M.7. The petitioner submitted his explanation

to the Second Show Cause Notice reiterating his case of innocence, is established by Ex. M.8. The disciplinary Authority concerned with the findings of the Enquiry Officer. The Disciplinary Authority carefully perused the records and weigh the evidence and this Tribunal finds no reason to interfere with the findings of the Enquiry Officer. The disciplinary authority concurred with the findings of the Enquiry Officer and dismissed the petitioner from service and subsistence allowance was paid to the petitioner is borne out by Ex. M.9. The petitioner preferred an appeal to the Chief Regional Manager, but he confirmed the order of dismissal removing the petitioner from service is made out by Ex. M.10. The order of dismissal of the petitioner from service is not biased and prejudicial. The petitioner preferred an appeal to the Chief Regional Manager and it was dismissed, is borne out by Ex. M.11. The contention of the petitioner that the husband of Kalavathy is a close friend of the Branch Manager, that the Branch Manager allotted light seat to Kalavathy, that the Branch Manager asked the petitioner to work over time, that the petitioner objected to that and the Branch Manager and Kalavathy colluded and created records with intention to take vengeance against the petitioner. He has been made as a scape-goat to cover up the lapses on their part, is untenable since there is no proof on the aforesaid aspect. The evidence of the Branch Manager is corroborated by Mr. K. Paramasivam. The Branch Manager questioned the petitioner regarding the incident. The petitioner orally confessed the misconduct but has refused to give it in writing. There is no bias or mala fide on the part of the witnesses examined on the side of the respondent. The Enquiry Officer acted without bias. There is no reason to interfere with the order of the disciplinary authority. Once a finding is rendered, that the employee is guilty of misconduct which is punishable under Indian Penal Code, it would be against the interests of the constituents of the Institution. If the adequate punishment is not imposed and the Company instead of launching criminal prosecution chooses to proceed by domestic enquiry, there is very little scope for generosity to be shown or to bring into existence minor punishment for such derelictions. Committing theft had been considered as a penal offence in the interest of society to maintain law and order in the country, and to strike out standards, when they occur in industries would be detrimental to the interest of the Nation will be affected is held in 1986 II-LLJ P 85 T. Seeralan Vs. The Presiding Officers. II Additional Labour Court and other. The dismissal of the petitioner from service on 26-8-85 is just and reasonable regarding the gravity of the offence.

7. By taking the aforesaid aspects into Consideration, this Tribunal comes to the irresistible conclusion that the Management of State Bank of India, Region III, Coimbatore in relating to the Krishnagiri is justified in dismissing Shri S. Govindarajulu from service with effect from 26-8-1985. The second part of the point does not arise for consideration. The first point is found against the petitioner. The second part of the point is found accordingly.

In the result, an award is passed rejecting the claim of the petitioner. No costs.

Dated, this the 27th day of September, 1994.

THIRU K. PONNUSAMY, Industrial Tribunal.

WITNESSES EXAMINED

For Workman : None

For Management :

MW1 : Thiru A. N. Parasuraman.

DOCUMENTS MARKED

For Workman : Nil.

For Management:

Ex. M.1/28-2-85 : Charge-sheet issued to the Petitioner Worker—Thiru S. Govindaraju (Xerox copy).

M-2/18-3-85 : Explanation by the Petitioner-worker to the charge-sheet (Xerox copy).

M-3 M-4/19-6-85 : Proceedings of the Enquiry Officer (Xerox copy).

M-3 M-4/19-6-85 : Letter from Petitioner workman to the Enquiry Officer (Xerox copy).

- M-5/ : Findings of the Enquiry Officer (Xerox copy).
 M-6/24-7-85 : Letter from Disciplinary Authority to the Petitioner-workman directing him to appear for personal hearing for the proposed punishment (Xerox copy).
 M-7/10-8-85 : Personal hearing to Petitioner-worker (Xerox copy);
 M-8/10-8-85 : Explanation of the Petitioner-worker to Ex. M.6 (Xerox copy).
 M-9/26-8-85 : Dismissal Order (Xerox copy).
 M-10/5-9-85 : Appeal preferred by Petitioner-Union against his dismissal order (Xerox copy).
 M-11/23-9-85 : Order of Appellate Authority (Xerox copy).
 M-12/2-1-85 : Letter from Thiru R. Srinivasan to the Respondent-Bank.
 M-13/31-10-78 : Application form for Opening Saving Bank Account in the Respondent-Bank, Krishnagiri Branch by Thiru R. Srinivasan.
 M-14 : Ledger A/c. of Thiru. R. Srinivasan bearing Saving Bank A/c. No. 4994.
 M-15/4-1-85 : Saving Bank withdrawal form for Rs. 1,000.
 M-16 : Page No. 22 of Tellers Register dated 10-11-84.
 M-17 : Page No. 130 of Tellers Register dated 4-1-85.
 M18 : Page No. 169 of Bank Cash Scroll dated 10-11-84.

नई दिल्ली, 3 जनवरी, 1995

का. भा. 192.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्विष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2 जनवरी को प्राप्त हुआ था।

[संख्या एल-12012/78/85-डी II/ए/आई आर बी-I]
 राजा लाल, डेस्क अधिकारी

New Delhi, the 3rd January, 1995

S.O. 192.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on the 2-1-1995.

[No. L-12012/(78)/85-D.II(A)/IRB.I]
 RAJA LAL, Desk Officer
 ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU
 MADRAS

Friday, the 20th day of May, 1994

Thiru K. Sampath Mumaran, B.A. B.L., Industrial Tribunal,
 Industrial Dispute No. 10/86

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947, between the Workmen and the Management of State Bank of India, Madras)

BETWEEN

The Workmen represented by :
 The General Secretary,
 State Bank Employees Union,
 P.B. No. 1548, 157, Angappa Naicken St.,
 Madras-1.

AND

The Chief General Manager,
 State Bank of India,
 L.T.O. Circletop House,
 Madras-600001.

REFERENCE :

Order No. L-12012(78)/85-D.II(A), dated 23-1-1986,
 Ministry of Labour, Government of India, New
 Delhi.

This dispute coming on for final hearing on Tuesday, the 17th day of May, 1994 upon perusing the reference, Claim and Counter Statements and all other material papers on record and upon hearing the arguments of Tvl. Row and Reddy and V. Prakash, Advocates appearing for the workmen and of Thiru T. S. Gopalan, Advocate appearing for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following :

AWARD

This reference has been made for the adjudication of the following issue :

"Whether the action of the Regional Manager, State Bank of India Region, II. Madras in relation to their Madurantakam Branch in imposing the punishment of stoppage of two increments on Shri M. Sundaram, Cashier and one increment on Shri P. Vasudevan, Cashier is justified? If not, to what relief the concerned workmen are entitled?"

2. The allegations in the claim statement are as follows :— This dispute relates to the imposition of the punishment of stoppage of two increments on M. Sundaram and one increment on P. Vasudevan, both Cashiers, at Madurantakam branch of the respondent-bank. The said employees are members of the petitioner-union. The allegations against them are frivolous and have been made to victimise them for their Union activities. The proceedings before the Enquiry Officer, the disciplinary and appellate authorities concerned show bias, violation of principles of natural justice and perversity.

3. Nine allegations were made against Sundaram and all of them relate to alleged incidents that took place in October/November, 1979. The allegations were vague. The last of the allegations was so vague that it merely states "Your Department and general behaviour towards the customers is highly unsatisfactory". Only on 2nd May, 1980 a show cause notice was issued. The charges were.—(a) On 12-10-79 M. Sundaram entered the Branch Manager's room and shouted that the Divisional Manager should not be allowed to do the work of receipting the credit vouchers etc. and thus created a scheme by indulging in indecent and disorderly behaviour.

(b) On 12-10-79 M. Sundaram allowed another Cashier M. K. Raghavan to handle the cash entrusted to Sundaram and to make payment through his payment scroll, without permission, and thus exposed the Bank to grade risk prejudicial to the interest of the Bank.

(c) On 12-10-79 Sundaram refused to hand over the paid vouchers to the Accounts Department till 4.30 p.m. greatly dislocating the routine.

(d) On 17-10-79 Sundaram made personal calls contrary to the instructions of the Branch Manager and when the Branch Manager cancelled the call he shouted at him.

(e) On 18-10-79 M. Sundaram booked personal call and repeated the misconduct.

(f) On 22-10-79 M. Sundaram while acting as Head Cashier refused to grant two gold loans despite instructions by the Manager. He did so after considerable delay and tarnished the image of the bank.

(g) On 31-10-79 and 30-11-79, which were Government pay days, M. Sundaram was responsible for delayed disbursement of cash due to his insistence on untieing the note bundles for verification before disbursement.

(h) On 7-11-79 when Sundaram was acting as Teller he refused to write the Savings Day Book attached to that seat.

(i) Sundaram's deportment and general behaviour towards customers were highly unsatisfactory.

4. A detailed explanation was given by Sundaram on 26-5-1980 and he stated that the allegations were malafide, since he belongs to the petitioner-union, and Union was not in good books of the Management. He pointed out several acts, commissions and omissions on the part of the Manager covering up the acts of indiscipline and fraud on the part of the members of the rival staff-union. The Branch Manager is the only witness examined in the enquiry. The explanation given by the workmen was brushed aside by the enquiry officer regarding charge (a) by saying that it was not for the employee to contend anything about the security risk when a responsible branch Manager is there to handle the situation and found the worker guilty by pointing out that the employee did not deny having entered the Manager's cabin.

5. With regard to charges (b) and (c) the Enquiry Officer appears to have followed the findings rendered against M. K. Raghavan who was also facing identical charges. The Enquiry Officer found Sundaram guilty of Charge (b), that is of allowing M. K. Raghavan to handle the cash unauthorisedly. The explanation of the workman was overlooked by the Enquiry Officer. In regard to charge (c) that Sundaram handed over paid vouchers only at 4.30 p.m. and greatly dislocated the work, the explanation was that the work was heavy, and the Enquiry Officer found him not guilty.

6. With regard to charges (d) and (e) the Enquiry Officer held Sundaram is not guilty.

With regard to charge (f) about the delayed grant of loan Sundaram's explanation was that he was acting as Head Cashier only on that day, and the head cashier concerned had specifically asked him not to grant any gold loan. Even otherwise, he said that as per the practice in the bank gold loans were entertained only upto 11.00 a.m. and not after that, and therefore, he was justified in refusing to grant the loan initially. The Enquiry Officer brushed aside the explanation. A misconduct can be said to have been committed only when the orders of the superior are not only reasonable but also lawful. The explanation of the worker shows that the Branch Manager was not justified in instructing the worker concerned to grant the gold loan. So, no misconduct could be said to have been committed by Sundaram. Ex P. 4 relied on by the Management to prove that the Branch Manager had instructed the worker concerned to grant the loan, and Sundaram refused to do so in writing was not shown to the worker concerned before the enquiry. Thus, a reasonable opportunity was denied to him.

8. With regard to charge (g) and (h) the Enquiry Officer followed his finding that were given in the case of P. Vasudevan, another Cashier. It was held that Sundaram was not guilty of charge (g) but was guilty of charge (h). Charge (h) related to refusal to write the day book. The explanation of worker was that he did not do so because he found that on earlier days arranged vouchers were found to have been tampered with and no assistance was given to him for sorting out and stitching the vouchers. This explanation was not appreciated by the Enquiry Officer.

9. In the case of P. Vasudevan, the charge against him related to the alleged incidents in September to December 1979. There was a delay in the issue of Show Cause Notice (on 2-5-80). The three charges against him are:

- That he insisted on untieing the notice bundles for verification before disbursement on 31-10-79 and 30-11-79, which were pay days and this delayed disbursement, causing inconvenience to the customers.
- On 20th and 21st September, 1979 while acting as the teller he refused to write the Savings Bank day book amounting to wilful insubordination.
- On 27-12-79 when the Assistant Labour Inspector was discussing with the Branch Manager Vasudevan entered the Branch Manager's Room and refused to go out, and thus behaved in an indecent and disorderly manner.

10. Charges (a) and (b) are identical to his charges (g) and (h) relating to Sundaram and explanations of the worker

are also identical. The Enquiry Officer also gave identical findings.

11. In regard to charge (c) of the worker contended that he did not create any scene, but only entered the Branch Manager's Room to be present in the meeting between the Branch Manager and the Labour Authority in his capacity as Secretary of the Union. He pointed out that if the other Cashier was present there, he should also have been charge sheeted.

12. The submissions of the workers were brushed aside by the Enquiry Officer, by stating that that it was for the disciplinary authority to decide as to against whom he should take action.

13. The Enquiry proceedings which were started in May 1980 were concluded only in 1984. The copy of the enquiry report was not given to the workmen. Suddenly, on 20-2-84, both the workers received a show cause notice confirming the findings of the Enquiry Officer and proposed to inflict the punishment of stoppage of increment. They were directed to appear before the disciplinary authority on 2-3-84, both at 10.00 a.m. for personal hearing regarding the proposed punishment. The routine manner in which the said communication was signed and the stereo typed observations therein about the confirmation of the findings is contrary to the principles of holding domestic enquiry, and the duties to be performed by the disciplinary authority. The disciplinary authority had not analysed the proceedings of the enquiry. These indicate that the disciplinary authority had already made up his mind as to what he was going to do. On 12-3-84 both the workers wrote to the disciplinary authority stating that they have not received the enquiry report and therefore, they were unable to say anything about the proposed punishment. In spite of that the enquiry report was not given to them. They were given copies only at the conciliation stage. The personal hearing given was a farce. The workmen preferred appeals to the Chief Regional Manager, Madras, who also passed a routine order identical in the case of both the employees merely confirming the disciplinary authorities' action. The action of the respondent smacks of victimisation and vindictiveness, bias and denial of reasonable opportunities to the workers. The findings and the conclusions of the authorities are perverse. There is no explanation why there was such a delay in issuing even the first show cause notice. The workmen did not admit the charges or that they committed the misconduct. They were justifying their actions by giving detailed reasons therefor. Different punishments were imposed, in regard to identical charges. M. Sundaram and M.K. Raghavan faced the same charge. While Raghavan was let-off with a mere censure Sundaram was singled out for severe punishment of stoppage of 2 increments. The punishment imposed is not warranted. Therefore, an award may be passed holding that the action of the respondent imposing the punishment of stoppage of increment on Sundaram and Vasudevan is unjustified and direct the respondent to grant the same.

14. The respondent filed the following Counter.—The petitioner-Union is not to proof of its representative character to take on the cause of the two workmen, and its authority and competence to raise the dispute on their behalf. The petitioner-union does not command membership from among a substantial section of the workmen of the respondent. The workmen have not authorised the petitioner-Union to raise the dispute regarding the cause of the two workmen. So, in the absence of the valid dispute the reference is bad in law.

15. P. Vasudevan, M. Sundaram and M. K. Raghavan were employed as Cashiers, in the Madhuranthakam branch of the respondent. In the last quarter of 1979 the Cashiers of Madhuranthakam branch were carrying on agitation against the local Branch Manager and resorted to dilatory tactics disrupting the normal functions of the branch. The workmen concerned in this dispute indulged in the misconducts as enumerated in the charge sheet. During the relevant period another cashier in Madhuranthakam Branch M. K. Raghavan also indulged in various acts of misconduct on 12-10-1979 when Sundaram was working in the payment counter he permitted M. K. Raghavan to make payment using his Sundaram's payment scroll, and the cash. M. K. Raghavan unauthorisedly handled the same, without prior permission. On 13-10-79 when the Branch Accountant and Head Cashier instructed

M. K. Raghavan to handover the paid vouchers, he refused to do so, stating that the Vouchers would be handed over only after balancing his individual cash and also after the cash was taken over by the Head Cashier. The Vouchers were handed over by M. K. Raghavan only at 1.30 p.m. thereby causing dislocation of work. On 13-10-79, 15-10-79 and 16-10-79 Raghavan refused to sort and classify tokens despite instructions. Since the charges relating to belated disbursement on government pay days that is 31-10-79 and 30-11-79, and refusal to write sayings bank day book attached to tellers' seat on 20-9-79 and 21-9-79 were common to both Vasudevan and M. Sundaram the proceedings of the enquiry were treated as common, and common findings were given.

16. On 20-2-84 the Disciplinary Authority came to the conclusion that having regard to the charges proved against P. Vasudevan he should be awarded the punishment of stoppage of one increment. P. Vasudevan was asked to appear for a personal hearing. After the personal hearing the Disciplinary Authority passed orders confirming the punishment of stoppage of one increment. In the case of Sundaram the disciplinary authority proposed the punishment of stoppage of two increments and he was asked to appear for personal hearing. After the personal hearing the disciplinary authority passed orders confirming the punishment of stoppage of two increments. M. K. Raghavan was given the punishment of censure. The evidence of the Branch Manager was genuine and was therefore accepted. The non-examination of other witnesses cannot prejudice the delinquent. The disciplinary action was not taken against Sundaram for merely entering the Branch Manager's room. The charges of misconduct levelled against Sundaram in items (B) and (C) were identical to charge (A) in respect of Raghavan. The defence of both of them and evidence in respect of the same, were the same. Hence, there was little scope to differentiate between them in respect of those charges. Between September and December 1979 the Cashiers of Maduranthakam Branch including Sundaram and P. Vasudevan indulged in series of acts of misconduct. Correspondence between the Branch Manager and the Regional Office was there, and after being satisfied that there was a prima facie case, charge sheets were issued on 2-3-80. It cannot be stated that there was undue delay in the issue of charge sheet. With regard to the charge against P. Vasudevan that he unauthorisedly entered the Branch Manager's room when the Branch Manager was discussing with the Assistant Labour Inspector. The presence of the other cashiers in the Branch Manager's room is of no consequence in considering the question whether P. Vasudevan was guilty. It was the case of the Branch Manager that the presence of the other cashier was authorised.

17. The concerned workmen were fully aware of the findings of the Enquiry Officer when they appeared before the Disciplinary Authority for personal hearing. The disciplinary authority considered the relevant papers before deciding on the question of punishment. If the concerned workmen had asked for a copy of the report of the Enquiry Officer at the time of the personal hearing the same would have been furnished. But they did not demand. When it was demanded before the conciliation officer a copy of findings was furnished to the petitioner. There is no basis for the allegations of victimisation. Though, the enquiry was completed on 8-12-1982 the Presenting Officer submitted his written arguments in April, 1983. Then the defence representatives submitted their summing up in June 1983. The Enquiry Officer who was pre-occupied with other work gave the findings on 13-1-84. After the receipt of the findings the workmen were asked to appear for personal hearing on 2-3-84. The delay if any did not cause any prejudice to the workmen. The two workmen were given every opportunity to put forth their case. There was no denial of reasonable opportunity, nor was there any violation of the principles of natural justice. The charge proved against Raghavan was just as serious as the charges proved against Sundaram and Vasudevan. Section 11-A of the Industrial Disputes Act would not apply to the facts of the present case. It will apply to the cases of dismissal or discharge. Hence, the order of Punishment cannot be interfered. Therefore, an award may be passed rejecting the claim of the petitioner.

18. The issues that arise for consideration in this Industrial Dispute are :

1. Whether the charges against the work men viz., M. Sundaram and P. Vasudevan have been proved?

2. Whether the enquiry against them has been just and fair?

3. Whether the Union has no right to espouse the cause of the workmen for want of authorisation by the workmen?

19. Issues 1 to 3.—The workmen concerned in this Industrial Dispute were two viz., M. Sundaram and P. Vasudevan. Of them M. Sundaram is reported to have died after the reference, but since this reference has been made at the instance of the Union, the Union continues the dispute even thereafter. If in case this Court finds that the punishment of stoppage of increment imposed upon Sundaram is not justified and sets it aside, then his legal representatives will be entitled to claim the monetary benefits. So, the Claim raised by Sundaram is also considered.

20. Sundaram and Vasudevan were working as Cashiers in the Madhuranthakam branch of the respondent i.e. State Bank of India. As many as 9 charges were framed against Sundaram and 3 charges were framed against Vasudevan. The Enquiry Officer found Sundaram to be guilty of charges a, b, f, h, and i and Vasudevan to be guilty of the charges b and c framed against them. The disciplinary authority agreed with the enquiry officer with regard to all of them, but imposed the punishment of stoppage of two increments on Sundaram and stoppage of one increment on Vasudevan. The appeals filed by them were also dismissed.

21. First I will deal with the charges levelled against Sundaram. The first charge is that on 12-10-79 the Madhuranthakam Branch received currency remittance of new notes from Reserve Bank of India, Madras that the Head Cashier was engaged in receiving the remittance, that the Divisional Manager (Agriculture) was receipting the bank credit vouchers, and Government Challans and also attesting the signatures of Government bills and cheques, and at that time Sundaram entered the Branch Manager's room and shouted at him demanding that the Divisional Manager (Agriculture) should not be allowed to do the above work, and created a scene by indulging in indecent and disorderly behaviour. He was charged that if these actions are proved, they would amount to acts of gross misconduct under para 52L4(c) and (j) of Sastry Award, and para 18.28 of Desai Award. This is denied by the said Sundaram. According to him, the Divisional Manager (Agriculture) was sitting in the Head Cashier's table and was doing the work which necessitated the public to go near him for getting attestation. According to him (Sundaram) this was a security risk, because he was doing the work by sitting on the Head Cashier's table as the cash room, the safe vault etc. are situated nearby the table. According to Sundaram previously, when the Branch Manager in question was an Accountant in some other branch, had given room for complaints and therefore, he wanted to safeguard him, and that was why he went and complained to the Branch Manager that it is not safe to allow the Divisional Manager (Agriculture) to do his work from the Head Cashier's table, thereby allowing the public to come to Head Cashier's seat near which there were cash room and safety vault etc. He denies that any other incident took place as alleged on this charge. The branch manager concerned Mr. Seshadri who was examined as MW1 (before the Enquiry Officer) on the side of the Management stated in his evidence what as Head Cashier had to be away from his seat for a few hours, the Divisional Manager (Agriculture) was asked to assist the Head Cashier in signing the cash receipts, attesting signatures on Government bills and cheques, and that while he was doing so, Sundaram came from his (Branch Manager's) room and wanted him to refrain the Divisional Manager (Agriculture) from performing the above work. MW1 stated before the Enquiry Officer that Sundaram did this by shouting at him and behaving in a disorderly and indecent behaviour in the presence of the public, and the staff members. So, it is evident that the Divisional Manager (Agriculture) was doing the work by occupying the seat of the Head Cashier. The Branch Manager also admitted that attestation and signatures on cheques and bills would involve entry of public. Though the Branch Manager stated that Sundaram told him that Divisional Manager should not be allowed to do the work, and Sundaram did not give any reason for that, it was suggested to him that Sundaram only objected to the Divisional Manager (Agriculture) performing the duties from the Head Cashier's table where the remittances were going on and when the safe was

open. Of course, this was denied by the Branch Manager. When it was asked of the Branch Manager, whether cashier had not given a written representation in this regard, the Branch Manager only stated that he did not remember. When that document was shown, the Branch Manager had accepted that had even initialled it on 12-10-1979 itself. So, we find that Sundaram had objected only to the Divisional Manager (Agriculture) doing his work from the Head Cashier's table, which is near the safe and vault on the ground that it will be not in the interest of the security. As a cashier he had apprehensions about the security of cash, in doing so. But, the question is when he brought this to the notice of the Branch Manager, did Sundaram behave in an indecent and disorderly behaviour and shouted at the Branch Manager. The evidence of the Branch Manager in this regard is only general. He stated that Sundaram shouted and behaved in indecent and disorderly manner. As to what exactly Sundaram did is not spoken to by him. There has also been no acceptable evidence except the testimony of the Branch Manager Seshadri, between whom and the cashiers, there is no good relationship. It is evident that Sundaram had even given a complaint against him to the Labour Department about the over work that was being given to the messengers. Therefore, the evidence of the Branch Manager Seshadri alone without any corroboration cannot be accepted. In this regard the branch Manager had admitted in his evidence that in the memo issued to Sundaram regarding the incident, it has been stated that Sundaram was accompanied by Vasudevan. The charge does not mention anything about Vasudevan also being present. Therefore, in these circumstances, I find that from the mere fact that Sundaram had come and objected to the Divisional Manager (Agriculture) occupying the seat of the Head Cashier and allowing the public to come near him for the purpose of getting attestation, it cannot be stated that Sundaram had committed any misconduct as to call for any disciplinary action. There is no acceptable independent evidence that he behaved in an indecent and disorderly behaviour. Therefore, I find that this charge A against Sundaram has not been proved.

22. Charge B against Sundaram is that on 12-10-1979 while Sundaram was working in the Payment Counter, he allowed M. K. Raghavan, another cashier to make payments through his payment scroll and handle cash entrusted on him, and thereby exposed the bank to grave risk, prejudicial to the interests of the bank. Regarding this charge the respondent-bank has not even produced the enquiry proceedings, containing evidence in this behalf. In his enquiry report Ex. W-3, against Sundaram Enquiry Officer stated that with regard to the findings on this charge (b) and another charge (c) reference may be made to the enquiry findings given against M. K. Raghavan. Though, the Enquiry report against M. K. Raghavan has been filed, the enquiry proceedings have not been marked. I find there is no evidence in this behalf. Further, M. K. Raghavan, is also a cashier and Sundaram stated that he was asked to assist him. What is the grave risk involved is also not established, in this regard. Therefore, I find that this Charge (b) against Sundaram has also not been established.

23. Charge (c) against Sundaram is that he did not hand-over the paid vouchers in time. The Enquiry Officer found Sundaram not guilty of the charge.

24. Charges (d) and (e) against Sundaram relate to the telephone calls alleged to have been made by him without the permission of the Manager. But the Enquiry Officer found him not guilty of both the charges.

25. Charge (f) against Sundaram is that on 22-10-1979, while Sundaram was acting as Head Cashier, the Branch Manager instructed him in writing to grant a gold loan for Rs. 6,000/- to an individual enclosing the loan application sanctioned by the Divisional Manager (Agriculture), but, Sundaram refused to sanction the loan initially, that the action in refusing to grant loan initially without explaining the reasons, and obtaining his instructions has caused considerable delay to the borrower, and that therefore he was guilty of misconduct under Para 521(4)(i) of the Sastry Award read with Para 18.28 of the Desai Award. Seshadri, the Branch Manager stated in his evidence that on 22-10-1979, Sundaram was acting as Head Cashier and the loan application was sent to him with a request to grant the same, but the same was not granted, but no reason was given by Sundaram, though granted it subsequently. The fact the loan was not granted initially is admitted by Sundaram. According to him, the gold loan was not granted by him because the Head Cashier

had instructed him not to grant any gold loan, and that usually gold loan is not entertained after 11.00 a.m., and that this gold loan application was delayed. But, it is seen that the loan is sanctioned by the Divisional Manager (Agriculture) and was forwarded to him for granting the loan. It is not for Sundaram, the acting Head Cashier to say 'No.' It is seen that it was even given to him in writing to sanction the loan and he had replied by stating simply as 'no'. This is certainly an act prejudicial to the interests of the bank as the customer will have a poor opinion about the bank. When the Branch Manager had stated that loan should be given and when the Divisional Manager (Agriculture) had sanctioned the loan, it is not for Sundaram to say that he will not give the loan on the ground that Head Cashier had instructed him not to grant any loan. The said Head Cashier was not examined as a witness on his side. Regarding the contention that usually that gold loan applications are not entertained after 11.00 a.m., also Sundaram cannot say that the Branch Manager cannot ask him to grant the loan even if it is after 11.00 a.m., and even if it is the practice in the branch that no gold loan applications are entertained after 11.00 a.m. In this regard the contention of the petitioner-Sundaram that he is bound to obey only the lawful directions that are given, and not other directions. But, there is nothing illegal or unlawful in the directions of the Branch Manager to grant this loan. Therefore, I find that Sundaram is guilty of this charge.

26. Charge (g) against Sundaram is that on 31-10-1979 and 30-11-1979 which were government payment days he was allotted the work in the payment counter, and that he deliberately delayed disbursement by insisting to verify the notes. But, the enquiry officer found him to be not guilty. This has been accepted by the disciplinary authority also.

27. The charge (h) against Sundaram is that on 7-11-1979 when he was acting as Teller at the branch, he refused to write the savings bank day book attached to the Teller's seat, and therefore, guilty of misconduct under paragraph 521.4 (j) of the Sastry Award read with para 18.28 Desai Award. The same charge is made against Vasudevan also. Against Vasudevan this charge is numbered as charge (b) in the charge sheet Ex. W-6 against Vasudevan. The Enquiry Officer found Sundaram also guilty of this charge. The finding of the Enquiry Officer was accepted by the Disciplinary Authority also. The Branch Manager Seshadri stated in his evidence that Sundaram was acting as Teller on 7-11-1979, and that one of the duties attached to the seat is writing of the Savings Bank day book, and that Mr. Sundaram did not write the day book on that day. It is also stated that as per clarification of the Head Office the tellers have to sort the vouchers properly and write the day book. It was contended on behalf of the petitioner that the daftary used to arrange and stitch the vouchers, and then only the tellers could write the day book properly but since the employee-Sundaram belongs to rival union, the daftary did not arrange and stitch the vouchers and therefore the day book could not be written. It is also conferred that Bank Manager questioned about the vouchers being in disorder, and that was also a reason for not writing the day book. Such a contention cannot be accepted. If, there was any practice that the daftary should arrange and stitch the vouchers to enable the tellers to write the day book properly, and that if a daftari refused to do so, it should be established by acceptable evidence, but there is no acceptable evidence for the same. Vasudevan against whom similar charge has been made stated that the Branch Manager insisted that he should write the day book. The employee cannot say that he will write the day book only if the vouchers are arranged and stitched by the Daftary. If some daftary helped some other teller by doing so, it is an entirely different matter between them, but, on that count, Sundaram cannot refuse to write the day book by stating that he will write the day book only if the vouchers are arranged and stitched by the daftari. Sundaram admitted that even on 6-4-79 he was informed by an office note that the day book writer should also arrange the vouchers. In this connection when P. Vasudevan against whom a similar charge was made, was examined, it was put to him by the Management that the arranging of vouchers and then writing is the inherent part of the day book writer's duty and he merely stated that in their branch it is only the daftary who will arrange and stitch the vouchers for writing the day book. When he was asked to say as to whether non-doing of this work by the daftary led to his not writing his day book, he merely stated that the daftary is doing this work for

others and therefore he should do the work for him also. But the dattary did not arrange and stitch the vouchers, and therefore he did not write the day book. But, he admitted that subsequently the Branch Manager passed an Office order, and to obey that, he himself arranged the vouchers and was doing the work. Therefore, it is seen that he did not perform the duty of writing the day book by stating that the Dattary did not arrange and stitch the vouchers. Such a contention cannot be accepted. Therefore, I find that Sundaram is guilty of his charge (h).

28. Charge (i) against Sundaram is that his general behaviour towards the customers is highly unsatisfactory, that his attitude towards the customers is callous and discourteous, and that he has been instigating customers who come for small coins and fresh notes to lodge complaints against bank instead of dealing with them in a reasonable and tactful manner. The Enquiry Officer held him guilty of this charge. The Branch Manager Seshadri (MW1 before the Enquiry Officer) stated in his evidence that the conduct and general behaviour of Sundaram is far from satisfactory, that he is discourteous and that he has been instigating customers to lodge complaints against branch. He stated that even in respect of small problems he would contact the officials at Kancheepuram and give exaggerated picture of the issue. He also stated that Sundaram never obeyed the superior's authority, that it was the general feeling of the officials and majority of the staff members that he was not behaving in a decent manner. He also stated a customer had complained that Sundaram was rude, discourteous and arrogant. He also stated that he abused the Branch Manager in the presence of a third party. The Branch Manager also said that he had received complaint from Durai and Mohandoss. But, except stating like this generally there is no acceptable evidence to show that the department and general behaviour of Sundaram towards customer is unsatisfactory or that he was discourteous towards the customers, or that he had instigated the customers to lodge complaints against the bank instead of tackling them. No customer has been examined to prove this charge. The evidence of the Branch Manager also cannot be accepted because it is clear that there is no good relationship between them. Although, the charge does not mention that even the staff and the officials had anything to complain against Sundaram, in his evidence the branch manager stated so. Therefore, it is obvious that taking his evidence alone Sundaram cannot be found guilty of this charge. So, I find that Sundaram is not guilty of this charge.

29. Next I will deal with the charges against P. Vasudevan. Charge (a) against him is similar to the charge (g) against Sundaram, that on the Government pay days, he wilfully and deliberately delayed the disbursement. But, the Enquiry Officer found that he is not guilty of that charge.

30. Charge (b) against Vasudevan is that on 20-9-79 and 21-9-79 when he was acting as teller he refused to write the Savings Bank day book. This charge is similar to charge (h) relating to Sundaram. Vasudevan had also taken similar defence and the Enquiry Officer found him guilty which was accepted by the Disciplinary Authority also. Whatever I have stated above on this charge in respect of Sundaram applies to the case of Vasudevan also. Apart from that we have the evidence of the Accountant of bank Mr. Viswanathan who was examined as MW2 before the Enquiry Officer. Viswanathan stated in this evidence, that Vasudevan was allotted the work of teller on 20th and 21st September, 1979, that he refused to write the Savings Bank day book, that even after he (MW2) asked him to write the accounts, Vasudevan refused to write. So, for the same reasons that applied to the case of Sundaram, I find that Vasudevan is also guilty of this charge.

31. The charge (c) against Vasudevan is that on 27-12-79 Assistant Labour Inspector called on the branch, and was conversing with the Branch Manager, that Vasudevan entered the Branch Manager's room without being called, and insisted that he would be present during the discussion between the Branch Manager and the Assistant Labour Inspector. It is alleged that when the Branch Manager asked him not to interfere and told him that his presence is not necessary, he created a noisy scene alongwith other cashier and thus behaved in an indecent and disorderly behaviour. The Enquiry Officer found him guilty of this charge, and the Disciplinary Authority agreed with it. Seshadri, the Branch Manager

(MW-1) stated in his evidence that on 27-12-1979 the Assistant Labour Inspector came to him for discussion about he working hours of the temporary messengers, that when he was discussing with him, Vasudevan entered the room, without being called, and sat beside the Labour Inspector, that when he asked him as to why he had come, he said that he had given the complaint to the Labour Inspector, and would therefore be present in the room to ensure that he (Branch Manager) did not pass any wrong information to the Labour Inspector. The Branch Manager stated that Vasudevan said that he would also make representations, that he objected to his presence and stated that he (Branch Manager) will not have any discussion with the Labour Inspector unless Vasudevan left the room. The Branch Manager said that Vasudevan alongwith Sundaram made loud noise and strong gesture amounting to indecent and disorderly behaviour. In cross-examination, he admitted that he does not remember the exact words used by the cashiers. But, he admitted that the Labour Inspector told him that he had received a complaint from Vasudevan and therefore, he had come there for discussion. Vasudevan stated in his evidence that a complaint had been given to the Labour Inspector regarding the overworking of all the messengers, that the Labour Inspector had informed about his coming to the bank, that as a complainant had went to the Manager's room, that the Manager asked him to get out and refused to discuss in this presence, that the Labour Inspector told the Branch Manager that it was he who asked him (Vasudevan) to come there, and that the Branch Manager refused to discuss in his presence and therefore, he went out. According to the petitioner this is all what happened. The Branch Manager Seshadri stated in his evidence that Sundaram the other delinquent was also standing near the Branch Manager's room, and that when he told Vasudevan that he need not be present, Sundaram also entered the room. But, he admitted that in the charge sheet the name of Sundaram is not specifically mentioned. One important point is that apart from not mentioning the name of Sundaram, the charge does not say that Sundaram and Vasudevan made strong gestures. It merely says that Vasudevan created a noisy scene alongwith the other cashier. If really Sundaram was also present there and he had also shouted at the Manager and had made gestures then the respondent would have issued a charge sheet to Sundaram for this alleged incident also, which it has not done. Further, except baldly stating that Vasudevan alongwith Sundaram made loud noise and strong gestures amounting to disorderly behaviour even the branch manager was not able to say as to what they said. Even the charge is vague and merely states that they created a noisy scene. I have already pointed out that Vasudevan had given a complaint against the Branch Manager, and the Branch Manager and the other cashiers did not maintain cordial relationship. The Labour Inspector in whose presence this incident is alleged to have taken place has not been examined by the Management. Therefore, I find that there is no acceptable evidence for this charge. The Labour Inspector had come to enquiry on a complaint given by Vasudevan and it is natural that Vasudevan wanted to be present at the time when the Labour Inspector made the enquiry. May be, he was overenthusiastic in entering the room of the Manager without being called by the Manager. But, by mere entering the room and attempting to take part in the discussion or to make representation to the Labour Inspector the employee Vasudevan cannot be stated to have committed any misconduct. There is no acceptable evidence to show that he misbehaved or misconducted himself. Therefore, I find that this charge against Vasudevan is not proved.

32. Regarding the question of punishment though I have disagreed with the findings of the Domestic enquiry authority on certain charges I have agreed with the findings with regard to two of the charge against Sundaram and one charge against Vasudevan. The punishment imposed is only stoppage of two increments on Sundaram and stoppage of one increment of Vasudevan. I find that they are not excessive. Further, this Tribunal cannot interfere with the punishment under Section 11-A of the Industrial Disputes Act, since these are not the cases of discharge or dismissal.

33. Of course, the petitioner had taken the plea that the domestic enquiry was not fair and just, but this plea was not pressed at the time of enquiry before this Tribunal. Even otherwise I find no material to support such a plea. In fact the Enquiry Officer had been very much considerate to the extent of allowing the defence representatives to be present

questions they wanted, though not directly connected with the charges. One contention of the petitioner is that the Enquiry report was not furnished before imposing the punishment, and that it was furnished only after the matter came up before the Conciliation Officer. This cannot vitiate the enquiry. The orders imposing punishment were passed in 1984 only. The Hon'ble Supreme Court has held that the decision in MOHAMMED RAMZA KHAN'S CASE rendered on 29-11-1990, that the non-furnishing of enquiry report will vitiate the findings is only prospective in its application and not affect the cases which already been disposed of in the present case, the order of the Disciplinary Authority was passed in the year 1984 itself. Therefore, the contention of the petitioner that the failure to furnish the copy of the report before imposing the punishment will vitiate the punishment imposed cannot be accepted.

34. Another contention raised by the petitioner is that enquiry was started in the year 1980 but was concluded only in the year 1984 and there is considerable delay. But, this contention again cannot be accepted to hold that the enquiry is vitiated. There were as many as 9 charges against one delinquent and 3 charges against the other delinquent. Naturally that will take time. Even the defence representative had taken lot of time to cross-examine the witness examined on the side of the Management. Further, it is not shown that any prejudice has been caused to the delinquent by this delay.

35. One of the contentions raised by the respondent-management is that the Industrial dispute has been raised by the General Secretary of the State Bank Employees' Union, raising the dispute with regard to two of the employees viz., Sundaram and Vasudevan, but, the petitioner has not proved its authority and competence to raise this Industrial dispute on their behalf. The respondent has stated in its counter that the workmen of the respondent bank have not authorised the petitioner union to raise dispute regarding the case of the workmen, and that in the absence of valid dispute no valid adjudication can be made. WW1 examined before this Tribunal is the General Secretary of the Petitioner-Union, stated that Sundaram and Vasudevan are the members of their Union, that they raised the Industrial Dispute with regard to the disciplinary proceedings taken against them. He has produced Ex. W-16 and W-17 the reports submitted in 'E' forms in respect of their Union for the year ending 31st December, 1985 and 31st December, 1986. He also stated that they used to raise Industrial disputes after discussion in the Central Committee, that there are records for the same, that they will produce such records, that the Central Committee is authorised to raise the dispute and there are records for the same. He admitted in cross-examination that after the counter was filed, in this dispute, they came to know that the respondent had raised the question that the petitioner-union has no right to raise the Industrial dispute. He stated that the authorisation was given to them 20 days prior to 10th January, 1985 when this Industrial dispute was raised. He also stated that they have got the minutes of the General Body Meeting and Executive Meeting, that they have By-Laws, and that they had not convened any General Body Meeting for raising this Industrial dispute. But, he stated that there was no necessity. It was suggested to him that petitioner-union was not authorised to raise this industrial dispute. In view of the specific plea taken by the respondent that the petitioner-Union has not been authorised to raise this Industrial dispute, the petitioner ought to have produced either the Bye-laws or a resolution authorising them to raise the Industrial dispute. So, the failure to produce them is also an obstacle in the way of the petitioner.

36. Therefore, taking into consideration all these circumstances, I find that two of the charges against Sundaram and one of the charges against Vasudevan have been proved, that the enquiry against them has been just and fair, and that the Union has also no right to espouse their case since it is not proved that Union has been authorised to espouse the case of the workmen.

37. In the result, I find that the action of the respondent-bank in imposing the punishment of stoppage of 2 increments on Sri M. Sundaram, Cashier and one increment on Sri P. Vasudevan, Cashier is justified, and that they are not entitled to any relief. Award is passed accordingly. No costs.

Dated, this the 20th day of May, 1994.

THIRU K. SAMPATH KUMARAN, Industrial Tribunal

WITNESSES EXAMINED

For Workmen :

W.W.-1—Thiru V. S. Ekambaram.

For Management None :

DOCUMENTS MARKED

For Workmen :

- Ex. W-1/2-5-90—Charge sheet issued to Thiru M. Sundaram, Cashier (copy).
- Ex. W12/26-5-90—Representation made to Regional Manager (copy).
- Ex. W-3/26-5-90—Findings of the Enquiry Officer against M. Sundaram (copy).
- Ex. W-4/22-5-84—Appeal preferred by Thiru M. Sundaram (copy).
- Ex. W-5/14-7-84—Order of the Appellate Authority (copy).
- Ex. W-6/2-5-90—Charge sheet issued to Thiru P. Vasudevan, Assistant Head Cashier (copy).
- Ex. W-7/26-5-90—Explanation by Thiru P. Vasudevan to Ex. W-6 (copy).
- Ex. W-8/12-3-84—Representation of Thiru P. Vasudevan saying enquiry report not given (copy).
- Ex. W-9/14-7-84—Order of the Appellate Authority (copy).
- Ex. W-10/2-5-80—Charge memo issued to Thiru M. K. Raghavan.
- Ex. W-11/14-7-84—Order of the Appellate Authority (copy).
- Ex. W-12/10-1-85—Dispute raised by the Petitioner-Union before the Regional Labour Commissioner (Central), Madras-6 (copy).
- Ex. W-13/13-1-85—Counter filed by the Management-Bank before the Assistant Labour Commissioner (Central)-II, Madras-6 (copy).
- Ex. W-14/20-3-85—Reply filed by the Petitioner-Union before the Asst. Labour Commissioner (Central)-II, Madras-6 (copy).
- Ex. W-15/9-4-85—Conciliation Failure Report (copy).
- Ex. W-16/9-4-85—Form 'E' Annual return prescribed under Section 28 of Trade Unions Act, 1926 for the year ending 31st December, 1985.
- Ex. W-17/9-4-85—Form E-Annual Return prescribed under Section 28 of Trade Unions Act, 1926 for the year ending 31st December, 1986.

For Management :

- Ex. M-1/26-5-90—Reply from Thiru M. K. Raghavan to the Show Cause Notice dated 2nd May, 1990 (copy).
- Ex. M-2/26-5-90—Xerox copy of the findings of the Enquiry Officer.
- Ex. M-3/20-2-84—Letter from Management to Thiru P. Vasudevan proposing the punishment of stoppage of one increment (copy).
- Ex. M-4/20-2-84—Letter from Management to Thiru M. Sundaram proposing the punishment of stoppage of one increment (copy).
- Ex. M-5/20-8-84—Letter from Management to Thiru M. K. Raghavan, proposing the punishment of Censure (copy).
- Ex. M-6/29-3-84—Letter from Disciplinary Authority to Thiru P. Vasudevan confirming the punishment of stoppage of one increment (copy).

- Ex. M-7/29-3-84—Letter from Disciplinary Authority to Thiru M. Sundaram confirming the punishment of stoppage of two increments (copy).
- Ex. M-8/29-3-84—Letter from Disciplinary Authority to Thiru M. K. Raghavan, confirming the punishment of censure.
- Ex. M-9/29-3-84—Proceedings of the enquiry officer (copy).

नई दिल्ली, 4 जनवरी, 1995

का. प्रा. 193.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कानारा बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 2 बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3 जनवरी, 1995 को प्राप्त हुआ था।

[संख्या एल-12012/264/85-डी IIए आई आर/(बी-2)]

बी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 4th January, 1995

S.O. 193.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Canara Bank and their workmen, which was received by the Central Government on 3-1-95.

[No. L-12012/264/85-DIIA/IR(B.II)]

V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL

TRIBUNAL NO. 2, BOMBAY

PRESENT :

Shri S. B. Panse.

Presiding Officer.

Reference No. CGIT-2/48 of 1986

Employers in relation to the management of Canara Bank, Malad(W.)

AND

Their Workmen

AND

APPEARANCE :

For the employers : Shri R. S. Pai, Advocate.

For the workmen : Shri M. B. Anchan, Advocate.

Bombay, dated 9th December, 1994

AWARD

PART-II

On 27-4-92, my Predecessor passed Award Part-I. Because of his findings, the management was given an opportunity to lead evidence in the matter to substantiate their action against the workman. While passing this Award Part-II, I have to give my findings on the remaining issues namely issues 3, 4 & 5. The issues and my findings thereon are as follows :

ISSUES

FINDINGS

- Whether the dismissal of Shri H. T. Koli, Clerk of the Canara Bank, Malad West Branch, Bombay with effect from 25-2-1982 by the management of the Canara Bank Bombay is justified?

Not Justified

- If not, to what relief the workman is entitled?

Reinstatement with full back wages & continuity in service

- What Award?

As per order below.

REASONS

- For the convenience sake it is better to narrate the facts of the case in nut shell.

3. Mr. H.T. Koli the workman was working at the Canara Bank's branch office at Malad West from 19-5-80. On 24-5-82 he was chargesheeted on the grounds that he had altered the figures in the deposit column of S. B. account 15052 of Shri Shankar Sanjeev Rao and thereby made himself a party to the fraud to the extent of Rs. 77,600/- and also by his wilful fraudulent alteration enabled the account holder Shri Shankar Sanjeev Rao to withdraw amounts from time to time amounting to Rs. 77,600. It is further contended that the amount of Rs. 25,000/- which was transferred to Modi Printers on 15-5-82 was withdrawn to the extent of Rs. 24,000/- on the same date. It is contended that as such the workman had committed a gross mis-conduct.

- A domestic enquiry was held against him and he was suspended from the services. He raised an industrial dispute which came to be sent to this Tribunal for adjudication.

5. The management by Part I Award had given an opportunity to lead evidence before the Tribunal to support their findings. It examined Ms. Sabrina Henricues (Exh. 39), Mr. Ratankumar (Exh. 40) Shankar Shetty (Exh. 43) & Mrs. Sumangala Mahale (Exh. 44). It also relied upon the documents which are produced on the record and which was already filed at the time of inquiry. As against that the workman examined himself at Exh. 47.

- From the charge (Exh. 27) it reveals that at the instance of the workman the S.B. a/c 15052 was opened in the name of Shri Shankar Sanjeev Rao on 7-4-82 and thereafter some amounts were shown to be deposited in this account. He changed the figures by putting figures on the back side of these figures an increased the amount in that account. Later on the amounts were withdrawn by the account holder.

7. Now it is to be seen whether the workman Koli is a party for opening the savings account No. 15052. Initially the xerox copies of the savings account were produced. It was done because the original was pending before the Metropolitan Magistrate Court. Later on by an application (Exh. 15) the original form was produced. On this form there is no column of introduction. In that column there is no name of Koli. This form nowhere bears the signature of Koli having the introduction of Shri Shankar Sanjeev Rao. On this background the testimony of Shri Ratnakumar (Exh. 40) has to be seen. He said that Shri Shankar Sanjeev Rao wanted to open the S.B. account in his Bank when he was working as an Officer at that Branch of Malad. When he asked for the introduction, Koli came there and told him that he knew Mr. Shankar Sanjeev Rao. He also told him that Shankar Sanjeev Rao had current account in the name of Modi Printers. Therefore his account came to be opened. But the workman had denied to have come there and introduced Shri Shankar Sanjeev Rao to Ratnakumar in opening the account. The current account is for business purpose and the savings account is for savings purpose. He admits that he does not know whether current a/c no. 1720 belongs to Sanjeev Shankar Rao or Shankar Sanjeev Rao. He admits that he had not personally checked up the account as it was checked by his superior of that section

and afterwards it came to his section. Thereafter the account was opened in the name of Shankar Sanjeev Rao. No record is produced to show that the current a/c in Modi Printers having no. 1720 stands in the name of Shri Shankar Sanjeev Rao. On the other hand the workman affirmed that it stands in the name of Shankar Sanjeev Rao. It may be further seen that the ledger of the current account holders was verified. At that time the workman was not working in the savings account but he was working in the loan and tapal department.

8. It is tried to bring on the record that the account of Modi Printers was opened after the introduction of one Sajana Stores whose proprietor was Ajit Singh Rana. It is tried to suggest that Ajit Singh Rana asked the workman to help him for opening the current a/c and then the savings a/c. The workman denied the same. Ajit Singh Rana is not examined before me to substantiate the contention of the management. For all these reasons it appears that there is no record to show that the workman had a hand in opening the saving account in the name of Shankar Sanjeev Rao.

9. Ms. Sabrina joined the branch at Malad on 26-9-82. At the relevant time she was there and working in the saving a/c department. Her duty was posting the entries in the ledger alongwith the other work. In May 1982 she noticed and traced out that there is a difference of about Rs. 77,000. She also on verification found over writing in the ledger pertaining to the account of Shankar Sanjeev Rao. Then she reported the matter to her superior and the enquiry was started.

10. Ms. Sabrina affirmed that the workman Koli used to take the initiative in completing the formalities for issuing of token, for withdrawal of money from S.B. a/c of Shankar Sanjeev Rao. She had not complained to the superior regarding the same. She also affirmed that on 30-4-82 a person came there with a cheque of Shankar Sanjeev Rao pertaining to his saving account for withdrawal of Rs. 5000 after withdrawing Rs. 5000 on the same day. She made an enquiry and later reported the matter to her Superior Mrs. Mahale regarding the same. Then Mrs. Mahale questioned the bearer of the cheque. He said that he knew Mr. Koli the workman. Then Mrs. Mahale enquired in her presence to Mr. Koli whether he knew that person then Koli answered in the affirmative and the payment was made. Mrs. Sumangala Mahale (Exh. 44) corroborates here. Koli had denied to have identified the person who had brought the cheque of Rs. 5,000.

11. Ms. Sabrina affirmed that on certain occasions she had seen that the workman had taken the cheques for withdrawal from the S.B. a/c of Shankar Sanjeev Rao and he used to bring it to her. Then he used to open the ledger and also used to write the token number on the cheque. She has affirmed that cheque nos. 090926, 090928 pertaining to the S.B. a/c of S. S. Rao, Koli had written the token no and the letter "T" respectively. This is encroaching upon the work of the witness. She admits that she never complaint to the Superiors regarding the same. Ratankumar has also affirmed that he has seen an undue interest shown by the workman for making payment against the cheques pertaining to the S.B. a/c S. S. Rao. If really he would have been that then he being the Officer at that time he was bound to inform the superiors and also warn the workman not to indulge in such practices. But he had not done so. I therefore find it very difficult to accept that the versions of Sabrina and Ratankumar that they has seen the workman taking undue interest for passing the cheque on the S.B. a/c of S. S. Rao.

12. Shri S. Shetty (Exh. 43) is the star witness in this case. During the period from 1980 to April 1983 he was the manager of the legal and recovery department at Bombay. He affirmed that on 20-5-82 he alongwith the Divisional Manager Shri Bhandari went to the Malad West Branch for investigation of the report of the Branch Manager involving a fraud of Rs. 78,000. They recorded the statement of Mr. Ratankumar, Mrs. Mahale and Ms. Sabrina and the workman Mr. Koli.

13. Shetty affirmed that thereafter he alongwith Bhandari and Koli and others went to the Malwani Colony to trace Shri S. S. Rao, who was the account holder and in whose account the said fraud took place. He affirmed that when he made an enquiry with the workman Koli told that he knew Mr. S. S. Rao and he facilitated to withdraw the said amount. When they reached there, Rao was not there and

he could not be traced. He affirmed that thereafter the workman took them to the Sajana Stores who was the introducer of the current account of S. S. Rao. The proprietor of the said stores was Ajit Kumar Rana was not available on the said date. Then a message was kept in his shop and thereafter they went away. Thereafter they went to Koli's residence a Malwani colony. He told them that he used to receive telephonic instructions from Rao to pay him cheques whenever his servant came to the Bank. He also said that one Shri Ganiga another employee of the Bank told him to help in the matter.

14. Mr. Shetty affirmed that on the next day in the morning he went to the branch alongwith Bhandari. Mr. Rao came to the bank at about 9.00 a.m. Ajit Kumar Rana told them that he introduced Mr. S. S. Rao to the Bank at the recommendation of the workman Koli. Thereafter on the suggestion of Koli they went to Goregaon where Mr. Rao had a Dye making shop. But he could not be traced out. Then they proceeded to the Circle Office situated at Cuffe Parade in Bhandari's car. On the way Shetty went to the Assistant Commissioner of Police Mr. Pawardhan. When he returned back Mr. Koli in the presence of Ratan Kumar and Mr. Bhandari told that he altered the Ledger figures, in the S.B. a/c of Rao to help him to withdraw the amount. He also pleaded that if he is given time he will trace out Mr. Rao and produce him before the Police of the Bank. He gave a statement to that effect which was partly recorded by Bhandari and partly by himself. Those statements are dated 20-5-82 and 21-5-82.

15. It was suggested to Shetty that the statement of Koli was brought down by threat and by keeping him in a room. It is pertinent to note that Bhandari had not given evidence in the Court. Infact, he is a very important witness. As he had not given any evidence they found his testimony to be a shaky one. Furthermore, it is rather difficult to accept that a person will accept the guilt unless an assurance is given to him or that any force is used against him. It can be further seen after perusal of the alleged statements of the workman it is specifically mentioned therein that the contents in those statements from nos. 1-4 are given by him in his free will without any force and co-ercion by anybody and they are true. The fact these endorsements were made because a force which was used upon him or there must be some assurance given to him to make these statements. It can be further seen that the workman by exh. 9 sent a letter to the General Manager through his Advocate dtd. 1-7-82 that an alleged statement was taken from him by force, mis-representation and undue influence when he was in a dazed condition. Koli affirmed that to that effect. Under such circumstance I am not inclined to accept those statement of the workman to be voluntary one for coming to the conclusion that he had committed a fraud.

16. The S.B. a/c in the name of S. S. Rao was opened on 27-8-82, by depositing Rs. 5. Then the figure Rs. 1400 was altered to the left side of the figure by 5 and the amount was made to Rs. 14,005. On 20-4-82 Rs. 15 were deposited and to its left figure 60 was added to make the payment of 6015, on May 6, 1982 an amount of Rs. 25 was deposited and to its left the figure 180 was added to show that Rs. 18025 was deposited on 25-5-82. An amount of Rs. 100 was deposited and on its left a figure of 40 was written enabling the Officer to see Rs. 40,100. Thereafter there are withdrawals to the tune of Rs. 76,000 from the said account on different days. An amount of Rs. 25,000 was transferred to Modi Printers on 15-5-82 out of that amount and an amount of Rs. 24,000 had already been withdrawn on the very day. At the relevant time the workman was not working in the Savings Bank Department. He was working in the loan and Tapal Department. Naturally he was not in a position to handle the ledgers of the savings account. It is not in dispute that after the office hours the ledgers are kept in the lockers. During the business hours the ledgers are with the ledger clerk and therefore there was no chance for the workman to alter or make any alterations in the ledger. It is pertinent to note that after the fraud was committed the specimen hand writing of the workman and that of the alterations in ledger were sent to the hand writing expert. But the hand writing expert had opined that it is not possible to express any opinion on the red ink enclosed marks on the basis of the material supplied to him. In other words the hand writing expert could not say that the altered figures were in the hand writing of the workman. Under such circumstance it is difficult to accept that the workman

had altered the figures enabling the account holder to withdraw the amounts.

17. It is argued on behalf of the workman that as he is acquitted of the charges levelled against him, he should be given the benefit of the same. I am not inclined to accept this submission because there is always difference between the criminal proceedings and the domestic enquiry. It is well settled that the acquittal in the criminal case does not give any right to the delinquent to get rid from the domestic enquiry. The acquittal of the workman on the ground inadequate proof in the criminal case of the mis-conduct can be proved against the workman on the basis of the evidence laid before the Tribunal.

18. In the case of Jain v/s. State Bank of India (1982) 1 LLJ page 54 the Supreme Court has held that the standard of proof required in respect of the disciplinary proceedings in the industrial adjudication is distinct and different from the standard proof required in criminal proceedings. In that case, the Supreme Court has upheld the dismissal of the employee by the State Bank on the basis of certain complaints received against him from a customer. The argument that the concerned customer was not examined before the domestic enquiry was held to be not a basic requirement, and the Supreme Court has held that even hearsay evidence is admissible and can be relied upon in industrial adjudication in disciplinary proceeding.

19. I had in my mind the ratio given in the above said authority. But even then I am not inclined to accept that on the preponderance of probability also it can be said that the workman had introduced S. S. Rao for opening the savings account. He altered figure in the savings account and helped him to withdraw the amount resulting into putting the loss to the Bank.

20. As I have come to this conclusion, in the result the action of the management of dismissing Koli from its service is not justified. There is no evidence for coming to the conclusion that the workman had committed any fraud or any acts mentioned in the chargesheet and the punishment which is given to him is definitely incorrect, illegal and void. This is not the case where the powers under section 11A of the Industrial Disputes Act are to be taken into consideration for punishment. Under such circumstance I record my findings on the points accordingly and pass the following order :

ORDER

1. The dismissal of Shri H. T. Koli, Clerk of Canara Bank, Malad West Branch, Bombay with effect from 22-2-1982 by the Management of Canara Bank, Bombay is not justified.
2. The management is directed to reinstate Shri H. T. Koli with immediate effect full back wages and continuity in service.
3. The management to pay Rs. 300 as the cost of this reference to the workman.

Dated : 9-12-1994.

S. B. PANSE, Presiding Officer

नई दिल्ली, 4 जनवरी, 1995

का. आ. 194—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 2 बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3 जनवरी, 1995 को प्राप्त हुआ था।

[संख्या एल-12012/06/89-डी II (ए)/आई आर (बी-2)]

बी. के. शर्मा, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 4th January, 1995

S.O. 194.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, 2 Bombay as shown in the Annexure in the industrial dispute between the employers in relation to the management of Dena Bank and their workmen, which was received by the Central Government on 3-1-1995.

[No. L-12012/06/89-D.II.A/IR (B-II)]

V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT :

Shri S. B. Panse, Presiding Officer.
Reference No. CGIT-2/26 of 1989

Employers in relation to the management of Dena Bank

AND

Their Workmen.

APPEARANCES :

For the Employers—Shri R. S. Pai, Advocate.
For the Workmen—Shri J. G. Gadkari, Advocate.
Bombay, the 7th December, 1994

AWARD PART I

Shri N. S. Walunj the workman was working as the Sub-ordinate at the Bank's Kalyan Branch with effect from 4-12-84. His working hours were from 10.00 a.m. to 6.00 p.m. On 9-7-85, at about 12.30 p.m. he came to the branch in a drunken condition. He approached the Branch Manager Mr. Patankar, and the other Clerks and shouted at them in loud voice and asked them who had marked 'L' against his name in the muster roll from 25-6-85 to 4-7-85 ?

2. It was further alleged that on 10-7-85 the workman accompanied by four strangers entered the Branch at around 11.30 a.m. and proceeded to the Cashier's cabin with the intention of looting the Bank's cash belonging to the Bank. On account of his such rude and indecent behaviour all the employees struck their work and the working of the Bank was thus paralysed.

3. The workman contended that on the basis of these allegations the Bank issued a chargesheet to him on 16-12-85. He was also put under suspension. He pleaded that he was not given an opportunity to defend himself in the domestic enquiry which was held against the workman. It is averred that the principles of natural justice were not followed. The Enquiry Officer was not an independent and dis-interested person, in the said enquiry. He was helping the cause of the management. It is asserted that the statements were not recorded in his presence nor he was given an opportunity to cross-examine the witness. He pleaded that no procedure was followed at the time of the departmental enquiry. He averred that the findings of the Enquiry Officer are perverse. He preferred an appeal before the Appellate Authority but it was not allowed.

Thereafter through the Union he made representation to the Asstt. Labour Commissioner (Central) Bombay on 22-2-1988. But the matter could not be settled down. Then he raised an industrial dispute. The Government of India, Ministry of Labour, and rehabilitation by its letter No. 12012/6/89-D.2 (A) dated 3-8-89 referred the following industrial dispute to this Tribunal for adjudication in the following terms :

"Whether the action of the management of Dena Bank in dismissing from service Shri N. S. Walunj is justified ? If not, to what relief is the workman entitled ?"

4. The management by their written statement at Exh. 4 concerned that the domestic enquiry was properly held and the punishment which is awarded to the workman is correct. It is submitted that after giving a chargesheet the workman

was asked to give his explanation regarding the workman he did not submit his explanation of the said chargesheet. It is averred that the Enquiry Officer after completing the enquiry had given his report with reasons. The Disciplinary Authority having regard of the nature of mis-conduct proved, proposed the punishment of dismissal without notice on the workman by a memorandum dated 8-9-86. A personal hearing was fixed on 1-10-86 with a view to give an opportunity to the workman to make submission in respect of the punishment proposed. The workman along with his defence representative Shri Vayeda appeared before the Disciplinary Authority and made submissions in respect of the punishment. The Disciplinary Authority after considering the proposed the above said punishment. The Appellate Authority also considered the appeal presented by the workman but rejected the same. It is averred that the principles of natural justice were followed at the time of the departmental enquiry. It is denied that the enquiry officer was of a bias mind and his findings were perverse.

5. My Learned Predecessor framed issues at Exh. 10 for determination. He further ordered that issues No. 1, 2 and 3 are to be treated as preliminary issues. The issues and my findings thereon are as under :

ISSUES	FINDINGS
1. Whether the inquiry conducted against the workman was not conducted properly, and the rules of natural justice were not followed ?	YES
2. Whether the Inquiry Officer was not an independent and disinterested person ?	NO
3. Whether the findings of the Inquiry Officer are perverse ?	YES

REASONS

6. Shri N. S. Walanj affirmed in support of his contentions as against that the Enquiry Officer deposed on behalf of the management.

7. Clauses 19.12 and 19.13 of the Bipartite Settlement deal with the procedure at the time of the domestic enquiry. It states that the chargesheet should clearly state the charges appearing against the workman. M-15 is the chargesheet which was issued to the workman dated 16-12-85. The workman by his statement Exh. E-4 admitted that he received a copy of the chargesheet and followed its contents. He denied the allegations in the said chargesheet and I find that it is clear in its terms.

8. By the said chargesheet the delinquent was given an opportunity to give his say within 7 days in respect of the allegations. It is admitted position that the workman had not given any say to this chargesheet.

9. It is tried to argue on the basis of E-4 that the workman had accepted the charge in respect of drunkenness. After the perusal of Exh. E-4 I am not inclined to accept that he had accepted the guilt as the Enquiry Officer had held it. The question which was put to him was that whether all the allegations as per the chargesheet are accepted by him. The answer given to it is that the charge that he came drunk was accepted by him and not the others. There is scolding, there is addition of word, and the answer cannot be said to be clear answer. Furthermore when such a plea of guilt is given, it should be clear in its terms which is not appearing here. As this is so, I am not inclined to accept that the workman accepted the guilt and the charge that he came in the Bank's premises in a drunken condition and behaved disorderly. It is tried to argue that in an appeal which was preferred before the Appellate Authority the workman contended that he may be shown mercy and in that petition it is admitted position that he accepted the guilt of drunkenness. It can be seen that when such an appeal is preferred against the Disciplinary Authority such plea of mercy is always taken. That does not mean that he accepted the guilt as suggested by the management.

10. Page 2 of the Enquiry Proceeding which is produced on the record suggests that the Enquiry Officer had put question to the delinquent i.e. the workman as per E-4, there was a Presenting Officer by name Shri Dalal. It is not clear that in the questions there is no question

that will represent him. Furthermore, there is nothing on the record which shows that he was asked by the Enquiry Officer that he was given sufficient time to defend himself. He has to be informed that he can be represented through the member of the union. There is nothing on the record. It is not accepted that the workman is bound to know regarding the procedure of the Departmental Enquiry. As this is so he is prejudiced. It appears that he is illiterate. It is not accepted that he is in a position to know that how the witnesses are cross-examined. According to the chargesheet he had done gross mis-conduct. Naturally the punishment which was likely to be awarded to him was of a serious nature and the fact that he was dismissed from the service clearly speaks that the punishment is severe. As this is so, the Enquiry Officer must have allowed the workman to represent through a representative. It may be seen that his representative came in picture only at the last when the appeal was preferred. The matter was over then. This cause prejudice to the dismissed workman.

11. From the record it does not appear that the list of witnesses was given to the workman. It also does not appear that the workman was allowed to lead evidence in support of his case. By the report of Shri Dalal the Presenting Officer dated 24-4-86 the statements of Mr. P. S. Tawde—Head Peon, Mr. V. Venkatraman—Award Staff, Satyanarayan Singh—Sub-staff, P. M. Kulkarni—Award Staff, A. M. Kothawale—Award Staff and I. G. Ashar the Accountant were taken by the Enquiry Officer with the help of the Presenting Officer. But there is a statement of Shri Patnagar M-1 on 24-3-86. As per roznama it does not appear that his statement was recorded on that day. It is submitted on behalf of the workman time and again that when the statement of witnesses were recorded he was not present and that appears to be correct, because there is no cross-examination of the witness Shri Patnagar. Not only that, there are other 3-4 witnesses of which there is no cross-examination. It may be said that as there is nothing against the workman he might not have cross-examined this witness. That would have been accepted it would have been endorsed that the cross-examination declined. Some times cross-examination is done to bring on the record all or other circumstance beneficial to the delinquent. It appears that no such opportunity was given to the workman for that purpose. It can be further seen that so far as the statement of Satyanarayan Singh is concerned it is not signed by the workman which goes to support that his statement was recorded behind the back of the delinquent. It can be seen that examination in chief of all the witnesses was not signed by the workman but he signed the cross-examination of some of the witnesses. It is a normal practice that when one witness is examined, his cross-examination is complete and then the parties present sign it. Here in this case nothing of that sort has taken place. That goes to show that the procedure is not properly followed nor an opportunity was given to the workman. The management placed reliance on Tripathi K. L. v/s. State Bank of India and Ors. (1984) 1 LLJ Supreme Court Page No. 2. In that case, looking to the facts of that case their Lordships have observed that there is no requirement of cross-examination to be fulfilled to justify fair play in action. When on the question of facts there was no dispute, no real prejudice has been caused to a party aggrieved by an order, by absence of formal opportunity of cross-examination per say does not invalidate or vitiate the decision arrived at fairly. The facts of that case are quite different then the facts that appear before me. The workman should therefore be given an opportunity to cross-examine the witness and which should have been done in his presence and which does not appear to have taken place. The ratio given in that authority is not applicable to the present set of facts. For all these reasons I find that the demands enquiry which was conducted against the workman is not conducted properly and the rules of natural justice were not followed.

12. Under the Bipartite settlement, the inquiry is required to be conducted by a Bank's Officer. The Inquiry Officer in the present case admittedly was the Bank's Officer. No instance of any bias has been brought out either in the Appeal filed by the workman before the Appellate Authority or in the statement of Claim filed before this Tribunal. On the contrary the inquiry was conducted in accordance with the

by the Inquiry Officer clear bringout that he has held the inquiry to an impartial manner and in consonance with the principles of natural justice. It is well settled that the allegations relating to bias require to be properly pleaded and proved before the adjudicator. The evidence on record brings out nothing to show that the Inquiry Officer was a biased person. In the circumstances, the said issue should be decided in favour of the Bank.

13. The Learned Advocate for the management place reliance on Central Bank of India v/s. Prakash Chand Jain (1969) 19 FLR 589 and submitted that when the findings of the domestic enquiry has to be treated as perverse then it has to be said that :

A. Not passed on legal evidence.

B. Is of such a nature that no reasonable person could have arrived at that conclusion on the basis of the material before it.

14. The Enquiry Officer has given the finding to the effect that the workman came in a drunken condition in the Branch on 9-7-85 at about 12.30 p.m. has been proved. It is on the basis of the admission exh. E-4 I already observed above that admission is not sufficient for coming to the conclusion to prove the charge against the workman.

15. The Learned Advocate for the management also submitted that Shri R. B. Ratnaparkhi (Exh. M/12) the witness of the Bank had categorically stated that at about 12.30 p.m. the workman entered the Branch in a drunken state. He was shouting loudly but he is not in a position to tell exactly the words which were spoken by him. But it was regarding his leave. It is pertinent to note that there is no cross-examination of his witness but at Exh. 10 there is reference of giving the statement of Shri Ratnaparkhi and one Mrs. Bhokrikar. It is further mentioned that on going through the statements of both these witnesses he had mentioned that :

"I have nothing to say in the statement of Mrs. Bhokrikar".

However, for the statement of Shri Ratnaparkhi he said

"I do not agree for the answer given for question No. 2 and 3 partly" i.e. objection to

1. Looting the cash of the Bank.

2. Four strange persons standing outside the counter.

This cannot be the cross-examination. It cannot be said that the workman was given an opportunity to cross-examine his witness. For all these reasons it appears that the conclusions on the Enquiry Officer on the basis of the admissions is perverse.

16. The management has examined the person Mr. Patnagar M-1 the Branch Manager. There is no cross-examination of this witness. It is unlikely that the workman will refuse the cross-examination of such a person on whose basis the domestic enquiry was started. There is no reason for him for not cross-examining the witness. The management had also examined Shri Tawade—Peon (M-2) Venkataraman (M-3) P. N. Kulkarni (M-4) Satyanarayan Singh (M-5) Assar (M-6) Kothawale (M-7) Tilla (M-8) Bhagwat (M-9) Rajwade (M-10) and Ratnaparkhi (M-12). So far as Bhokrikar is concerned she was examined in chief as on record it appears at Exh. E-10. The whole procedure which appears to be adopted in this enquiry is not fair and just. Naturally the findings which the Learned Enquiry Officer had arrived at are not on the basis of the material before him, and they are not legal findings. As such the findings are to be said to be perverse.

17. As I have come to the conclusion that the enquiry is not fair and proper as an opportunity order has to be given to the management to lead evidence regarding the same which I am going to do in the present matter. For all these reasons I record my findings on the points accordingly and pass Award Part-I as follows :

ORDER

1. The enquiry conducted against the workman was not proper and the rules of natural justice were not

2. The Enquiry Officer was an independent and disinterested person.

3. The findings of the Enquiry Officer are perverse.

Dated : 7-12-1994

S. B. PANSE, Presiding Officer

नई दिल्ली, 4 जनवरी, 1995

का.आ. 195.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध में निम्नलिखित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 2, बंबई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-95 को प्राप्त हुआ था।

[संख्या एल-12012/545/88-डी II ए/आई आर (बी-II)]

बी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 4th January, 1995

S.O. 195.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, 2 Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workmen, which was received by the Central Government on 3-1-95.

[No. L-12012/545/88-D.II.A/IR (B-II)]

V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

Present :

Shri S. B. Panse, Presiding Officer.

REFERENCE NO. CGIT-2/7 OF 1989

Employers in relation to the management of Punjab National Bank

AND

Their workmen

Appearances :

For the employers : Shri A. K. Dubey, Representative.

For the workmen : Shri B. W. Vaidya, Representative.

Bombay, dated 8th December, 1994

AWARD

The Government of India, Ministry of Labour, New Delhi by its letter No. L-12012/545/88-D.II (A) dated 23rd March 1989 had referred to the following industrial dispute for adjudication. It is in the following terms :

"Whether the action of the management of Punjab National Bank in withdrawing the special allowance of Shri A. G. Bhekre is justified ? If not, to what relief is the workman entitled ?"

2. Shri A. G. Bhekre, the workman was working in the capacity of the Head Cashier at Punjab National Bank, Branch Office, Colaba, Bombay during the year 1987. He participated in the strike on 7-9-87 and 18-9-87 without handing over the cash-keys of the branch of which he was the incharge. He was given an office order by the Branch Manager to hand

over the keys of the cash counter so that the customer services of the Bank is not effected. But he refused to hand over the cash-keys and also to note the Office order issued by the Branch management.

3. On 07-9-87 a charge-sheet was given to him contending the disobedience and not handing over the cash-keys. Again on 28-9-87 another charge-sheet was given to him with more details contending therein that he had committed gross misconduct in terms of the Bipartite Settlement No. 19.5(e) and 19.5(j). He was also directed to give his say in respect of the charge-sheet within 3 days from the date thereof failing which it will be presumed that he has nothing to say in his defence.

4. The workman contended that on 14-10-87 he gave a reply to the said charge-sheet that he denied the allegations. He said that the Officer going on strike to the instructions issued by the Bank were not to take charge even if offered by the officers. He referred to the circular issued by the management in August 1985. He further contended that in one of the Bombay branches the Head Cashier offered to hand over the charge of cash and keys on 10th August, 1987 and the Bank refused to take the charge. He said that the action of the management is discriminatory.

5. The workman contended that he appeared before the Enquiry Officer Shri Shenoy. He asked Mr. Bhекре to sign the papers prepared by him. He further informed Bhекре that if he signs the paper then no further action will be taken against him. On the basis of his assurance, he signed the papers. It is contended that the procedure contemplated for domestic enquiry was not followed. He was not asked whether he understood the charges levelled against him. The workman contended that he revoked the admission which was alleged to have been given by him by writing letters on 21-11-87 and 23-11-87. He submitted that the punishment given to him is disproportionate to the alleged charges proved against him. He contended that the Disciplinary Authority in his case ought to have been rejected the Regional Manager and the Asstt. Regional Manager. For all these reasons he contended that the action of the management in withdrawing the special allowance of the workman is not justified and the special allowance to him may be restored.

6. The management by its written statement Exh. 4 denied the contentions of the workman. It is averred that when a domestic enquiry was started the workman accepted the charges levelled against him and therefore no further enquiry was carried out. On its basis, a report was sent to the Disciplinary Authority and they took the action. It is submitted that the procedure contemplated in the Bipartite Settlement was followed and the punishment awarded to the workman is perfectly justified. It is denied that a discriminatory treatment was given to the workman while awarding the punishment. It is asserted that no undue influence was used by the Disciplinary Authority while conducting the enquiry as alleged. It is submitted that the punishment which is awarded to the workman is perfectly legal and proper to the charges proved and as such he is not entitled to any relief.

7. My Learned Predecessor framed issues at Exh. 5. The issues and my findings thereon are as under :

ISSUES

FINDINGS

- | | |
|--|---------------------|
| 1. Whether the disciplinary and inquiry proceedings held by the Bank against the workman Shri A. G. Bhекре are bad in law, void and illegal for different grounds urged by the union in its statement of claim ? | NO |
| 2. Whether the action of the management of Punjab National Bank in withdrawing the special allowance of Shri A. G. Bhекре is justified | NO |
| 3. If not, to what relief is the workman entitled | As per order below. |
| 4. What Award ? | As per order below |

REASONS

8 Para 19.12 of the Bipartite settlement dated 9-10-66 deals with the procedure for taking or conducting the do-

mestic enquiry. As per that procedure first of all a charge-sheet is to be given to the person concerned against whom a departmental enquiry has to be instituted. He has to be given an opportunity to give his say in the matter. Here in this case, as per Exh. 6/1, 6/2 two chargesheets were given to the workman dated 7-9-87 and 28-9-87 respectively. He was also given an opportunity to give his say to it within three days from its receipt. The charges are clear in its term. It is the case of the workman that they are vague in nature and he did not understand them. It appears that he had given reply to it and denied the same. He had given an explanation giving the details of denying the charges. His reply is dated 14-10-87. This explanation was not accepted by the management. In the result an enquiry officer was appointed by the Disciplinary Authority. (Exh. 6/4).

On 10-11-87 the Enquiry Officer wrote a letter (Exh. 6/5) informing the workman-delinquent that the domestic enquiry will be held on 17-11-87, and accordingly the enquiry took place on that day.

10. (Exh. 6/6) copy of the enquiry proceeding which appears to bear the signature of the workman. It does not bear the date but it is not the case of the workman that his signature was not taken on that. Therefore the contention that it has no date has no meaning. In this proceeding in para 2 it is observed that :

"The Enquiry Officer read out the chargesheets dated 7-9-87 and 28-9-87 and enquired of Shri Bhекре whether he understood the charges contained in the chargesheets. Shri Bhекре confirmed that he understood the charges. The Enquiry Officer enquired of Shri Bhекре whether he admits and pleads guilty of the charges. Shri Bhекре admitted the charges and pleaded that he was guilty of the same."

This clearly goes to show that the workman accepted the charges which were levelled against him. It appears that thereafter on 18-11-87 he submitted his report (Exh. 6/9) to the Disciplinary Authority. On its basis the Disciplinary Authority accepted the same and sent a show cause notice to the delinquent informing him what he has to say regarding the proposed punishment (Exh. 6/7). It is dated 21-11-87. It appears that he instead of appearing personally, before the Disciplinary Authority sent a letter to the Disciplinary Authority that he revoked his acceptance of the charges. Same type of letter is written again on 23-11-87. The word used is revoked. The word is suggested that what is accepted by him is revoked. That is not mentioned. Infact, it can be seen that when a final report was sent by the Enquiry Officer to the Disciplinary Authority this letter is written. It appears that this letter was written after the proposed punishment was served upon him. I therefore find that there is no justification for these two letters.

11. As the workman accepted the charges levelled against him it was quite natural for the Enquiry Officer not to record the statements of their witnesses or proceed with other formalities of the Departmental Enquiry. Shri S. V. Sharma the Enquiry Officer in categorical terms had affirmed that he explained the charges levelled against the workman to him. He followed the same and accepted the same. He denied that any assurance was given to him. Ms. Vandana Sharma (Exh. 11) the Presenting Officer also supports Shenoy on these facts. Shri Shenoy and Sharma both have affirmed that the workman admitted the charges levelled against him and pleaded guilty of the same on his own accord without having been pressurised in any way. After going through their cross-examination nothing is thereon the record to show that they used undue influence on the workman or promised him that no action will be taken against him. It is pertinent to note that the workman affirmed that the Enquiry Officer asked him to sign the papers prepared by him and told him that no action will be taken against him. As this is so, it has to be accepted that the workman accepted his guilt voluntarily and the Enquiry Officer is justified in accepting the same and submitting his report on its basis.

12. One of the contentions of the workman is that as per the schedule to circular no. 1012 dated 13-4-82 issued by the Bank the Disciplinary Authority in the case of the workman was the Regional Manager and not the Assistant Regional Manager. Sharma had affirmed that Shri Awasthi the Regional Manager was the Disciplinary Authority in the matter and the Assistant Regional Manager is not accepted as the Dis-

disciplinary Authority and appointed Ms. Vandana Sharma as the Presenting Officer. She affirmed that the post of the Assistant Regional Manager is above the post of Regional Manager. The Regional Manager are known as the Regional Manager of scale 4 rank or may be in view of the size of the region and place of the Bank. But the post of the Assistant General Manager is the post within the scale 4 rank but they are Regional Managers only and they are treated as Regional Managers for all practical purposes. It is well settled position in the Industrial Law that any higher authority can exercise powers of inferior authority. In the present case, Awasthi who was the Disciplinary Authority was posted as the Regional Head for Bombay Region. Therefore Awasthi was the Disciplinary Authority in the above case being the Regional Head in terms of circular no. 1014 dated 13-4-85. In all from the above there is no flaw in respect of the appointment of the Enquiry Officer and taking action by the Disciplinary Authority.

13. I may say it here that from the testimony of Shenoy it reveals that the opportunity was given to the workman to represent through an Advocate. It appears that he rejected that offer and accepted the charges levelled against him. For all these reasons I find that the enquiry which was held against the workman is perfectly legal and proper. It is not bad in law or void.

14. On the basis of the Enquiry report and after going through the letters sent by the workman the Disciplinary Authority with its detailed reasons had passed the order. The Disciplinary Authority had observed that since the charge is of gross mis-conduct in terms of the Bi-partite Settlement and as they are serious in nature because it amounts to avoidable inconvenience and sufferings and delays to the Bank customers the punishment of withdrawal of special allowance of Cashier-in-charge being paid to the workman was affirmed.

15. It is argued on behalf of the workman that while awarding the punishment there is a discrimination at Frh. 15/1. There is an annexure which goes to show that one Shridharan and one Trinathi and Shambhunath Singh who were working as Cashiers in the different branches of the Bank were charged like the workman. But they were punished only by way of warning. It can be seen that the charges which were levelled against these four persons were the same. They are from the different branches. It is not the case that the Disciplinary Authority had granted different punishments to all these persons, for the events took place on one single day. These events had taken place on different dates. To substantiate this contention the representative of the workman place reliance on Sengara Singh and Others V/s. State of Punjab and Others 1983 L.J. page 161. Their the Government took action against 1,100 members of the Police force at first instant. Subsequently re-instatement of 1000 Police constables and withdrawal of the criminal cases against them was ordered by the Government. While disposing of the appeal THEIR LORDSHIPS have observed that All the 1100 dismissed members of the Police Force were guilty of same misconduct, namely indiscipline to the same extent and degree as the present appellants. If the indiscipline of a large number of personnel amongst dismissed personnel could be condoned or overlooked and after withdrawing the criminal cases against them could be reinstated there is no justification in treating the present appellants differently without pointing out how they were guilty of more serious misconduct or the degree of indiscipline in their case was higher when compared to those who were reinstated. Since the respondents failed to explain the distinguishing feature all of them are put to in the same bracket. On that conclusion the treatment meted out to the few sufferers from the vice of arbitrariness and Art. 14 forbids any arbitrary action which would tantamount to denial of equality as guaranteed by Art. 14 of the Constitution. Relying on this it is tried to argue that the punishment which is awarded to the workman is serious and unjustified. It can be seen that in this particular case the incident was on the same date. Here these four persons were charge-sheeted at different places on different dates. No doubt the allegations are one and the same. But the workman is charged two times i.e. with these four persons. Therefore more severe punishment which is awarded to all these four persons should be there. But at the same time I find that the punishment which is awarded to the workman is more harsh. By the withdrawal of special allowance of the workman he is debarred for getting it through out his service. This appears to be a very very severe punishment. It can be seen that this workman had withdrawn his admission of

guilt later on with making certain allegations which are not just and proper. Taking into consideration of these facts the three months withdrawal of special allowance of this workman will meet the ends of justice. I have answered the issues accordingly. In the result I pass the following order :

ORDER

1. The action of the management of Punjab National Bank in withdrawing the Special allowance of Shri A. G. Bhakre is not justified.
2. The 3 months special allowance only has to be withdrawn of the workman Shri A. G. Bhakre.
3. No order as to costs.

Dated : 8-12-1994.

S. B. PANSE, Presiding Officer

नई दिल्ली, 4 जनवरी, 1995

का. भा. 196.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चंडीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-95 को प्राप्त हुआ था।

[संख्या एल-12012/226/93-आईआर. (बी-II)]

बी०के० शर्मा, डेस्क अधिकारी

New Delhi, the 4th January, 1995

S.O. 196.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workmen, which was received by the Central Government on 3rd January, 1995.

[No. L-12012/226/93-IR(B-II)]
V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE SHRI M. S. SULLAR, PRESIDING OFFICER,
CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

Case No. I.D. 23/94

Amar Nath

Vs.

Union Bank of India

For the workman—Shri T. C. Sharma.

For the management—Shri Ravi Khanna.

AWARD

Dated : 15-12-1994

In the wake of industrial dispute raised by the workman, Amar Nath, Central Government vide its letter No. 12012/226/93-IR (B-II) dated 17th February, 1994 issued u/s. 10(1)(d) of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Union Bank of India, Jammu in discharging Shri Amar Nath, Clerk-cum-Cashier from services w.e.f. 31st March, 1990 is justified? If not, what relief, is the workman entitled to?"

2. The present reference petition was registered on 22nd February, 1994 and notices to the parties were issued for 6th May, 1994 by Shri Arvind Kumar, the then learned Presiding Officer, vide his orders dated 23rd February, 1994.

On 6th May, 1994 Shri T. C. Sharma appeared on behalf of the workman and sought adjournment for filing the statement of claim. Consequent case was adjourned to 14th June, 1994 for the said purpose. On that day, case was fixed for proper order and it was adjourned to 24th August, 1994.

3. On 24th August, 1994, Shri T. C. Sharma again appeared on behalf of the workman while Shri Ravi Khanna represented the management. The case was adjourned to 6th September, 1994 for filing the statement of claim by the workman. The workman did not file the statement of claim either on 24th August, 1994, 6th September, 1994, 13th September, 1994 and 26th September, 1994. On 26th September, 1994 last opportunity was granted to the workman to file the statement of claim subject to Rs. 100 as cost and the case was adjourned for today. Today Shri T. C. Sharma, representative of the workman, is present but he has neither filed the statement of claim nor paid the cost, nor any cogent explanation for not filing the statement of claim is forthcoming.

As indicated earlier, the workman has not filed the statement of claim despite many opportunities nor his representative has paid the cost today. From the facts narrated above, I am satisfied, that the workman has nothing to substantiate his claim, and he is not interested in prosecuting the reference. Consequently, the reference petition is, hereby, declined. Appropriate Government be informed accordingly.

M. S. SULLAR, Presiding Officer

Chandigarh,
15-12-1994.

नई दिल्ली, 4 जनवरी, 1995

का.प्र. 197.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एल. आई. सी. आफ इंडिया के प्रबन्धतन्त्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 1 बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-95 को प्राप्त हुआ था।

[संख्या एल-17012/11/86-डी 4ए/आईआर (बी-II)]

वी०के० शर्मा, डेस्क अधिकारी

New Delhi, the 4th January, 1995

S.O. 197.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-I, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of LIC of India and their workmen, which was received by the Central Government on 3rd January, 1995.

[No. L-17012/11/86-D.IV.A/IR(B-ID)]
V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1. BOMBAY

PRESENT:

Shri Justice R. G. Sindhakar, Presiding Officer.

Reference No. CGIT-1/87/1990

PARTIES:

Employers in relation to the management of Life Insurance Corporation of India,

AND

Their Workman.

APPEARANCES:

For the Management—Shri Dharwadkar, Advocate.
For the Workman—Shri Kulkarni, Advocate.

INDUSTRY : Insurance.

STATE : Maharashtra.

Bombay, dated the 16th day of December, 1994

AWARD

Government of India by letter dated 19th November, 1990 referred dispute mentioned in the schedule for adjudication under section 10(1)(d) read with 2A of the Industrial Disputes Act, 1947.

SCHEDULE

"Whether the action of the Sr. D. M. Life Insurance Corporation of India, Pune in removing Shri Marathe T. G. from the services w.e.f. 5th November, 1984 is legal and justified? If not, to what relief the workman is entitled?"

2. Shri Marathe has been employed in the Life Insurance Corporation of India with effect from 5th October, 1962 in its divisional office. He initially was appointed as a Stationery Hamal. From 1962 when he was appointed, he states, his record is crystal clear and spotless. Last salary drawn was Rs. 1300 per month. He is a 'workman' within the meaning of a Section 2(s) of the Industrial Disputes Act.

3. On 18th of December, 1982 he was issued a charge sheet and according to him on flimsy grounds. It was alleged that on 18th November, 1982 the work which was assigned to him has not been performed by him fully. As a result the stationery which was to be sent to the Prabham Branch could not be dispatched. It was further alleged that on 19th November, 1982 he assaulted one Mr. Kalbhor and without seeking permission left the work spot till 3.30 p.m.

4. Inquiry was conducted and he was found guilty. On the basis of that report he came to be dismissed.

5. His grievance is that his conduct did not amount to misconduct and the inquiry conducted was not in accordance with principles of natural justice. Inquiry Officer did not explain to him the procedure, did not provide any opportunity to him for allowing him to adduce evidence in support of his defence, no dates of inquiry were communicated to him. No police complaint was lodged in respect of the incident and the findings are perverse and the penalty imposed is shockingly disproportionate. It is also contended that Shri Mandavalkar who was also issued a charge sheet was engaging in money lending trade and he had a quarrel with Mr. Kalbhor Shri Marathe intervened then to pacify them. He, therefore, prayed for setting aside that order being illegal and unjustified and reinstatement with back wages and continuity of service.

6. The Management has filed written statement. Admitting that Mr. Marathe was an employee whose services were terminated by an order dated 1st January, 1984. It has been stated that it is preceded by an inquiry which was conducted in accordance with principles of natural justice and fair play. The Management maintains that conduct of Shri Marathe came within the mischief of 'misconduct' and established against him and the penalty imposed was in keeping with the gravity of the charge. It is submitted that the order of dismissal was altered to removal from service by the appellate authority and confirmed by the Chairman to whom Shri Marathe preferred a memorial. The Management wanted issue with regard to fairness of inquiry to be dealt with as preliminary issue.

7. Issues have been framed after hearing both the sides and issue No. 1 is whether the workman proved that departmental inquiry conducted against him was in breach of principles of natural justice or there was any breach of service regulations applicable to him and whether he proved that the departmental inquiry conducted against him was improper illegal and unfair. I have heard the learned counsel appearing on either side and will deal with the submissions made.

8. Following issues have been framed and my findings are recorded along side.

1. Whether the second party workman proved that departmental inquiry conducted against him is in breach of principles of natural justice or is in breach of service regulations applicable to him? No
2. Does the second party workman prove that the departmental inquiry conducted against him is improper, illegal and unfair? No
3. Does the second party workman further prove that findings recorded by the Inquiry Officer are perverse? No
4. Does the second party workman further prove that findings recorded by the Inquiry Officer are proved to the satisfaction of the tribunal by acceptable evidence or not? Yes by acceptable evidence.
5. What order? As per order.

The delinquent Shri Marathe was served a charge sheet for the acts committed by him on 18th of November, 1982 and 19th of November, 1982 the charge sheet is Ex. 'M-1'. After receipt of his reply Ex. 'M-2' dated 31st December, 1982 wherein he denied the charges levied against him. Inquiry was instituted against him. The findings of the inquiry officer were against Shri Marathe and it was held that the charges were proved. The Competent Authority gave him a show cause notice and after considering his reply passed an order of dismissal. Thereafter he appealed against that order and the Appellate authority altered penalty imposed to one of removal from service and after his memorial to the chairman he did not get any further relief.

9. The delinquent is governed by the staff regulations of the Life Insurance Corporation of India and penalties are prescribed in clause 39. Under clause 39(2) no order of penalty of removal or dismissal from service could be passed by the authority without the charge or charges being communicated to him in writing and without his having been given a reasonable opportunity of defending himself against any such charge or charges and of showing cause against action proposed to be taken against him. In this case before me Shri Marathe was communicated the charges in writing and he has been given an opportunity of defending himself against such charges and also of showing cause against the action proposed to be taken against him. The disciplinary authority is also empowered to impose any of the penalties mentioned in b to g in clause 39(1) and could itself inquire into such charges or if it thought it necessary to do so appoint a board of enquiry or an inquiry officer for that purpose. In this case inquiry officer was appointed for the purpose of inquiring into the charges and as stated earlier opportunity of defending himself and of showing cause against the action proposed to be taken is given to him. Management, therefore, contends that the disciplinary action is preceded by an inquiry and he has been given the charge sheet in writing, given an opportunity to defend himself and therefore the same is justified.

10. As against this contention on behalf of the delinquent is that the inquiry conducted was not in accordance with principles of natural justice in as much as he was not explained the procedure by the inquiry officer, was not provided an opportunity of adducing evidence in support of his defence, no dates of inquiry were communicated to him and the findings recorded are perverse. He further submitted that he was not paid subsistence allowance to which he was entitled during the pendency of the inquiry and that the penalty imposed is shockingly disproportionate. The Management has refuted the contentions raised by the delinquent workman.

11. The papers of inquiry have been produced and they show that the inquiry officer has recorded the evidence ad-

duced on behalf of the Management and it also appears that the witnesses examined were subjected to cross-examination. The submission is that material was examined by the inquiry officer in the light of the submissions made on behalf of the delinquent and relying upon that material the inquiry officer concluded that the charges were proved.

12. On first issue I find that there is no breach of service regulations applicable to the delinquent employee. The contention appears to be that the regulations provided misconduct in clauses 23 to 25 and in none of them the present acts are covered. There is some misconception on this point. Clause 39(1) provided as follows: "Without prejudice to the provisions or other regulations (in one or more of) the following penalties for good and sufficient reasons and as hereinafter provided to be imposed by the disciplinary authority as specified in schedule-1 on an employee who commits a breach of regulations of the corporation or who displays inefficiency or incompetence or who knowingly does anything detrimental to the interest of the corporation or contravening with the instructions or who commits a breach of discipline or who is guilty of any other act prejudicial to good conduct.....". Therefore one cannot look to the provisions from clauses 23 to 25 only and find out whether the acts alleged amounted to misconduct within any of those clauses. Clause 39(1) in my opinion is covering the other acts mentioned therein for imposing penalties prescribed. The decision in the case of the Gharo's Laboratories (I) Limited and Labour Court Meerut and Others 1984 1, L.L.J. P. 16 is with respect, on different set of facts. Herein this case before me the allegations are that the delinquent employee on the ground that the saw was not sharp enough left the department leaving the work half finished and even after sharpened saw was given the work could not be finished and thereby disturbed the functioning of the department. He displayed utter disregard for the work appointed and the instruction given by superior and the second charge was he instead of attending to his work on 19th November, 1982 at about 1.30 with saw in hand assaulted Mr. Kalbhor record clerk who was doing work and in a loud tone questioned him as to why he was interfering in the delinquent's work and the charge against him was a breach of office discipline and creating an atmosphere of insecurity in the minds of the person working in the stationary section and thereafter leaving the department without permission and not resuming the work till 3.30 p.m. that day. The result of this was that the stationary which was to be sent to Prabhandi could not be sent and disobeying thereby instructions given by superior. This clause 39(1) is specifically mentioned in the charge sheet. I, therefore, see no merit in this contention.

13. The other part of this issue is whether the departmental inquiry was in breach of principles of natural justice. In para 3 of the statement of claim it has been stated that the evidence of two witnesses examined namely Mr. Kalbhor and Mr. Patkar did not sustain the charge. It is further stated that he was not explained the procedure by inquiry officer nor was he provided any opportunity of adducing evidence in support of his defence and no dates of inquiry were communicated to him. I do not find any merit in the contention that the delinquent was not aware of the procedure that was to be followed at the inquiry. In fact Mr. Patvardhan was his defence counsel and it appears that on the first day when they met documents were produced and Mr. Phalke the presenting officer was asked to submit documents and the list of witnesses which he was to examine. Documents and list was given seeking permission to adduce more documentary and oral evidence if necessary. They were admitted as exhibits and certified copies were given to Shri Patvardhan. Mr. Patvardhan informed that he did not want to see the originals and if required he may see the originals. He further requested for a week's time for studying the documents and that was granted. Inquiry was adjourned to 6th of May, 1993 at 10.10. On that day again Mr. Patvardhan and the delinquent were present. It appears whenever the matter came to be adjourned to the next date the date was fixed in the presence of the delinquent and the defence counsel and the next date was announced and on the adjourned date both the delinquent and his counsel were present when proceedings were held. It is, therefore, futile to contend that he was not informed the dates.

14. It is also not correct to say that the delinquent was not allowed to lead evidence. In fact he had examined himself in the inquiry and he was assisted by a defence counsel, Mr. Patvardhan. It is difficult to believe that he was

deprived of any opportunity to examine defence witnesses. At no stage of the inquiry did he mention that he wanted to examine witnesses. On the contrary when he made written submission in reply to the show cause notice he did not say that he was not allowed to lead defence evidence.

15. The third ground of attack is that the findings are perverse. So far as the allegations made against him are concerned I find that there was material before the inquiry officer to hold them as proved. It is summarised by him in the report and I do not find that there is any perversity in the finding recorded or in the reasoning given. The contentions raised on behalf of the defence have been noted, considered by the inquiry officer and the defence raised has been rejected. The defence was given an opportunity to cross-examine witnesses and the documents adduced were taken note of. It is true that some of the questions posed were disallowed by the inquiry officer but I do not find that any prejudice has been caused thereby to the delinquent. I therefore find on issue No. 1 and finding will have to be recorded against the workman. As a consequent of this finding on issue No. 2 & 3 will have to be also recorded accordingly I have also come to the conclusion that acceptable evidence would lead to the conclusion reached by the inquiry officer and accepted by the disciplinary authority.

16. The contention raised in the statements of claim is that the penalty is shockingly disproportionate. The inquiry officer recommended penalty, the competent authority gave notice calling upon him to show cause why penalty of dismissal in terms of regulations 39(1)(g) of the said regulations 1960 be not imposed upon him. He was supplied a copy of a report and he replied to the same and same was considered and ultimately penalty of dismissal was passed. In an appeal that was reduced to removal from service. He also sent a memorial to the Chairman and the Chairman though it fit not to further reduce the penalty.

17. The submission made on behalf of the delinquent employee is that the lapse on the part of the delinquent even if held proved did not deserve the penalty of dismissal or removal from service. In this connection it has to be noted that on 18th of November, 1982 the lapse consisted of leaving the work of packing on the ground that the saw was not sharp enough and even after being given a sharpened saw he did not complete the work and left it half way. That delayed the dispatch of stationery of Parbhani Branch. Now the second established charge is that he did not attend to that work on the 19th and complained about it but with a saw in hand went over to Mr. Kalbhor record clerk and assaulted him. His shirt was torn in the process by the saw in the hand of Shri Marathe and in a loud voice Mr. Kalbhor was questioned for interfering in his (Marathe's) work. That amounted to breach of office discipline created an atmosphere of insecurity and then leaving the department and not coming to the department till 3.30 in spite of messages and thereby disturbing the functioning of the department and disobeying instructions of his superiors. The tearing of the shirt of Shri Kalbhor does not appear to be a deliberate act. Kalbhor's report to his senior Divisional Manager dated 19th November, 1982 showed that there was a slight tear and that too because of the saw coming in contact with the shirt. His carrying the saw also could not be attributed to his intention of taking it with a view to assault Shri Kalbhor. It does appear that while he was doing his work Shri Marathe alongwith Mandavalkar ran at him, questioned him about Shri Kalbhor interfering with their work. It appears that the tone was loud and the language improper. It also appears that the work of dispatching stationery to Parbhani branch was held up because of the act of Shri Marathe. The point however is whether the punishment of removal from service as imposed by the appellate authority was called for.

18. In this connection a decision of the Supreme Court in the case between Vedprakash Gupta M/s. Delfon Kathe India (P) Limited reported in 1984 1 L.L.J. p. 546 is referred to on behalf of the workman. There it is observed that the charge (use of abusive language) against the appellant was not a serious one and it was not known how the charge, even if proved, result in any, much less total loss of confidence of the Management in the appellant. The punishment awarded to the appellant and which was one of dismissal was held to be shockingly disproportionate regard being had to the charge framed against him and it was observed "no

responsible employed would ever impose in like circumstances punishment of dismissal and victimisation and an unfair labour practice could well be inferred from the conduct of the Management.

19. In another decision in the case of Kurnarna Nandan and Fluid power (private) Limited and others reported in 1987 11 LLN Page 748 also the High Court of Bombay found that the penalty of dismissal was disproportionate to the charge levelled against the delinquent and the charge alleged that he caused damage to some wooden boxes which were kept ready for dispatch to the Ministry of Defence. In a decision between Kamaichandra Roy Choudhary and Union of India and others reported in 1987 (54) FLR page 801 therein the Allahabad High Court was dealing with a case of an employee removed from service and the charge of over staying or leaving station without waiting for sanction of leave. Adequate justification for the removal from service was not given and it was held that it was arbitrary exercise of powers. It was further found that a fault was over staying or leaving station without waiting for sanction of leave and that was not proper. It was also noted that efficient functioning in office depended on observance of rules and regulations employee committing breach was liable to be penalised. Further it was observed that every such breach should not result in severest penalty. The violation or disobedience of regulations may become misconduct depending on gravity of breach. Depriving the person of his bread and butter was arbitrary exercise of power. Tested on anvil of Supreme Court decision in Bhagatram's case and in absence of charge or finding touching upon honesty or integrity or indiscipline or misbehaviour of petitioner. The order removing petitioner from service was rendered infirm.

20. In this case another decision in Jaswant Singh Vs. Pepsu Roadways Transport Corporation & another reported in 1984 Labour and Industrial case page 7 is cited. A driver was charged for having consumed liquor while on duty and that constituted misconduct under the relevant standing order. As a result of inquiry disciplinary action was taken and he was dismissed from services. In an Industrial Dispute raised the Presiding Officer Labour Court held that he was drunk but looking to the circumstances of the case was of the view that the punishment of dismissal from the service was on the heavier side and therefore directed reinstatement without back wages. That was set aside by the High Court which held that the decisions of the Labour Court directing reinstatement of the Appellant was not correct holding the jurisdiction under section 11-A was exercised on extraneous and irrelevant consideration. The punishment of dismissal was confirmed. The Supreme Court noting that it was his first offence, the Labour Court exercising its jurisdiction under section 11-A of the Industrial Disputes Act was of the opinion in the facts of the case punishment of dismissal was rather heavy and not called for and had reduced the punishment. The Supreme Court pointed out that the Labour Court was right and justified. A further penalty of withholding of 3 increments in the time scale he would be reinstated for the next 3 years was imposed.

21. In this case before me I find that the disciplinary authority has not given any reasons why it imposed the extreme penalty of dismissal from service mentioned in clause 39(1)(g) for the misconduct alleged and proved. The show cause notice also did not mention any specific reasons. The delinquent employee has mentioned in his reply to the show cause notice that proposed punishment of dismissal will be out of proportion even if the misconduct is held proved. The Appellant authority namely the Zonal Manager also concurred with the disciplinary authority on the point of penalty but added "however considering the submissions made by Shri Marathe in his aforesaid appeal and taking into account all the aspect of the case I am inclined to take lenient view on humanitarian grounds and hereby modify the penalty of dismissal from the service of the Corporation imposed on him under regulations 39(1)(g) of the Life Insurance Corporation of India (staff) regulations 1960 by the disciplinary authority to that of removal from the service of the corporation....". Here again no reasons for saying that the penalty of dismissal from service was not required to be awarded are given and all that is stated is that he did not find any justifiable reason to amend. The Chairman to whom a memorial is addressed was satisfied that the penalty of dismissal imposed by the disciplinary authority and which was modified by the Appellant authority into one of removal on humanitarian

grounds was commensurate with gravity of misconduct proved. And it could not be termed as excessive or unjustified. He further observed that apart from acknowledging the guilt and expressing regret he has not made out any case to warrant interference with the penalty of removal as imposed on him. He rejected the memorial. Mr. Dharwadkar also submitted that it is a proper penalty.

22. I find that on 18th the workman Shri Marathe had a grievance about saw being not sharp enough and it appears that he was given back that saw after sharpening. Therefore there was some justification for his initial grievance. May be he was not justified in doing that he did namely in not resuming the work after the sharpened saw was given and in going away and also indulging in some heated altercation with Kalbhor but for all that I think penalty of removal from service was rather harsh and disproportionate. The workman has been without a job since after his removal and in my opinion has suffered enough. I am informed by the counsel that he was scheduled to retire in 1994. Therefore the direction is that he is reinstated till the age of superannuation and with 50 per cent back wages from the date of termination.

Award accordingly.

R. G. SINDHAKAR, Presiding Officer

नई दिल्ली, 4 जनवरी 1995

का.प्र. 198. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जवाहरलाल नेहरू पोर्ट ट्रस्ट के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं.1, बम्बे के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-1-95 को प्राप्त हुआ था।

[संख्या एल-31011/1/91-आई मार (विविध)]

वी० एम० डेविड हेड्स अधिकारी

New Delhi, the 4th January, 1995

S.O. 198.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Bombay as shown in the Annexure in the industrial dispute between the employers in relation to the management of Jawaharlal Nehru Port Trust and their workmen, which was received by the Central Government on 4-1-1995.

[No. L-31011/1/91-IR (Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, BOMBAY

PRESENT :

Shri Justice R. G. Sindhakar, Presiding Officer.

Reference No. CGIT-86 of 1991

PARTIES :

Employers in relation to the management of Jawaharlal Nehru Port Trust

AND

Their Workmen.

APPEARANCES :

For the Management—Shri D'Souza, Officer.

For the Workmen—Shri Jayaprakash Sawant.

INDUSTRY : Port and Docks

STATE : Maharashtra

Bombay, the 19th day of December, 1994

AWARD

Government of India, Ministry of Labour has by letter dated -10-1991 referred dispute mentioned in the schedule below for adjudication under Section 10(1)(d) read with sub-section 2-A of the Industrial Disputes Act, 1947.

"Whether the action of the management of Jawaharlal Nehru Port Trust in not absorbing 112 workmen which includes the categories of Master, Driver, Greaser and Laskar (as per the list enclosed) on the permanent roll of the Jawaharlal Nehru Port Trust, and thus depriving the 112 workmen the wages and other service conditions applicable to regular workman is legal and justified? If not, what relief the workmen are entitled to?"

2. Statement of claim has been filed on behalf of the union representing the workman. According to the union the dispute referred to the Asst. Labour Commissioner, Central, Bombay, could not be settled and therefore, present reference has been made by the Government of India.

3. The Board of Trustees of Jawaharlal Nehru Port known as Jawaharlal Nehru Port Trust has been constituted in May 1982 under the provisions of the Major Port Trusts Act, 1963. Section 42(1) of the Act provided that the Board shall have power to undertake the services of piloting, hauling, mooring, remooring, hooking or measuring of vessels or any other services in respect of vessels. The Marine Department of Trust is vested with pilotage and conservancy functions as obtained in the establishments of other ten major port trusts which are also under the control of the Central Government. The Marine Department of JNPT provides pilotage, towage and allied vessel related services to ships calling at the port. The port has started its functioning since 26th May, 1989. The management has acquired the compact fleet of portcrafts for the purpose of carrying out its above said regular work as provided under the Major Port Trusts Act, 1963.

4. The particulars of portcrafts have been given in para 6. The maintenance and repairs of the portcrafts is done by JNPT and it has been recovering the charges and fees from the owners and/or agents of ships visiting the port for the services rendered by its Marine Department in respect of piloting, hauling, mooring, remooring, hooking or measuring of vessels or any other services in respect of vessels visiting the port, and for that purpose has directly employed the staff in its Marine Department as mentioned in para 8. It has engaged more than 100 workmen concerning the present dispute in the various categories mentioned in para 9 for running and operation of these portcrafts, continuously from the month of September, 1989. These workmen have been attending to the work of JNPT which has been controlling and supervising the manner in which the work of manning and operation of portcrafts is to be done by the said workmen. They form an important part of the organisation of JNPT and their work is adding substantially to the income and profits of JNPT. The portcrafts that they operate are owned by JNPT.

5. The workmen have been paid their wages by JNPT through its alleged labour contractors namely :

(1) M/s. Uran Shipyard Pvt. Ltd.

(2) M/s. Seaspen Shipping and Trading Pvt. Ltd.

6. In other major ports the respective port trust directly employs the workmen in the categories of Master, Driver, Greaser and Laskar and pay wages and grant service conditions in terms of the wage settlements arrived at between the management of Major Port Trusts controlled by the Central Government and Federations of Port and Dock Workers. JNPT is, therefore, bound to pay the workmen concerning the present dispute, the wages with liberalised terms and conditions of their employment from the date of their joining the JNPT's work in terms of Wage Settlements, awards, orders etc.

7. The grievance is that JNPT is the real employer and has been not paying the workmen that which they are entitled to. More benefits of holidays, hours of work are available to the workmen directly employed by JNPT, BPT of work. Instead they have been paying wages to the of work. Instead they have been paying wages to the alleged labour contractors which are far less than those paid, to other workmen directly employed by JNPT, BPT, etc.

8. This system introduced is a device to avoid statutory responsibility and amounts to exploitation and it is in violation of Articles 14, 21, 23, 28, 39, 42, 43 and 43-A of the Constitution of India and these are in no way permitted to be done. The union, therefore, prays for an award to the effect that the contract workers concerning the said dispute should be shown and treated as direct employees of the management of JNPT and should be given wages, allowances and given other condition of service which are given to the same or similar or equivalent categories of employees directly working with JNPT, BPT or other establishments of Port Trust from the date they were employed through the alleged contractors.

9. Written statement is filed on behalf of the Port Trust. It is contended that the reference is misconceived, not maintainable and should be rejected on the ground that the dispute regarding contract labour cannot be adjudicated by the Industrial Court in a reference under Section 10 of the Industrial Disputes Act, 1947 which matter falls within the exclusive jurisdiction of the Contract Labour Act, 1970.

10. It submits that it entered into a contract with M/s. Uran Shipyard and M/s. Seaspan Shipping Ltd., for manning, operations, maintenance and repairs of the vessels belonging to the JNPT. The portcrafts for providing these services mentioned in para 8 are provided by the JNPT. The contract for services with these contractors includes contract for maintenance of the portcraft and JNPT pays the OXM and victual line charges, the annual repair charges, dry dock charges, etc. to the contractors in respect of the services rendered by them to the vessels calling at the port. The services did not form core activities of JNPT. The wages and salaries of the employees maintained by the contractors are not paid by JNPT. Their work is also not supervised by the JNPT and neither has the JNPT pay control over the method of doing work by the employees. JNPT has no power of selection of the contractors' employees nor does it have any disciplinary control over them. JNPT has not engaged more than 112 workmen concerned in the present reference in the categories of Master, Driver, Greaser and Laskar for controlling and supervising of portcrafts. The persons listed in the present reference are employees of the contractors with whom JNPT has entered to a contract for services. It is denied that the contractors workmen form an important part of the organisation of JNPT and that it has been adding substantially to the income and profits of JNPT. The portcrafts that they operate are owned by JNPT. It is denied that the JNPT paid wages for the contractors workmen.

11. It is contended that merely because the other major ports have their own employees in the categories of Master, Driver, Greaser and Laskar duly covered under settlements, it does not cast an obligation on the JNPT to follow suit. The JNPT submits that it does not have any categories of posts like Master, Greaser and Laskar in substance. It is denied that there is any relationship of employer/employee between the workmen listed in the schedule and the JNPT. It is denied that they are employee of JNPT. Contention is that the existence of such relationship is a precondition for jurisdiction under reference and therefore, this dispute cannot be adjudicated upon by this Tribunal.

12. Rejoinder has been filed on behalf of the union to the written statement filed. It is contended that the Tribunal has no jurisdiction to adjudicate upon this dispute. The contention is that there is no demand for abolition of the contract labour system. The demand is for examining the actual reality behind the facade of paper arrangement of contract labour system. This Tribunal should pierce the veil to find out the fact that the so-called contract labour system is only make-believe. The reference to the decision of the Supreme Court in Hussainbhai's case is made. The question raised according to the union is as to who is the

employee in Labour Law and whether there is a relationship of employer/employee existing between the JNPT and these workmen who have been employed under agreement with the contractors.

13. At one stage attempt was made to get M/s. Uran Shipyard Pvt. Ltd. and M/s. Seaspan Shipping Ltd. joined as parties to this reference but ultimately that request was not pressed.

14. The submissions have been made in writing on behalf of employer/employee existing between the JNPT and these behalf of the JNPT.

15. The main contention raised by Mr. D'Souza is about the jurisdiction of this Central Government to make this reference for adjudication of the dispute mentioned in the schedule and also about the jurisdiction of this Tribunal to adjudicate upon the same. His submission is that this is mainly a dispute about engaging contract labour and will have to be dealt with by the Central Government in accordance with the provisions of Contract Labour (Regulation and Abolition) Act, 1970 and allied legislation on the subject and it is not now open to the Central Government after this enactment to refer such a dispute for adjudication. He has relied upon several decisions.

16. First one on the point is in the case between Vegoils Pvt. Ltd. and the workmen reported in 1971 II LLJ Page 567. There in that case the dispute referred for adjudication consisted of two parts, (a) that the contract system should be abolished, and (b) that the workman employed by the contractor should be treated as the appellant's regular employees with all the benefits of service conditions available to such regular employee of the company. It is held :

"With effect from February 10, 1971 the jurisdiction to decide matters connected with contract labour is now vested in the appropriate Government who alone can prohibit contract labour following the procedure laid down in the Act. The Industrial Tribunal will have no jurisdiction though its award is dated November 20, 1970 according to the Central Act."

It is further observed that in any event, such a direction contained in the award cannot be enforced from a date when abolition of contract labour can only be done by the appropriate Government in accordance with the provisions of the Central Act.

17. Next decision relied upon is the one in the case between Philips Workers Union, Thane and State of Maharashtra and Another reported in 1987 II LLJ Page 91. It has been held that "Where the Contract Labour (Regulations and Abolition) Act, 1970 applies to an establishment, it is for the appropriate Government under Section 10 to prohibit the employment of contract Labour and no reference under Section 10 of the Industrial Disputes Act can be sought for absorption of Contract Labour by principal employer and for payment of all benefits available to the permanent employees of principal employer".

18. The next decision on which reliance is placed on behalf of the JNPT is the one reported in 1993 II LLJ page 1014. It was a case between Delhi Cloth and General Mills Co. Ltd. and State of Rajasthan and others. There it has been laid down that after the enactment of 1970 Act, Government cannot make reference under Industrial Disputes Act, on the subject of contract labour. It is held that the Industrial Disputes Act is admittedly a general enactment. Out of generality of the matters falling within the purview of the Industrial Disputes Act, the Act of 1970 takes out one case of contract labour, whether they are employed by a contractor or they work in an establishment. The Act is therefore, a special Central enactment and will prevail to the extent that it applies over the Industrial Disputes Act which is the earlier general law pertaining to the subject of contract labour and the power to refer a dispute concerning the same. Since the special Central enactment prevails over the earlier general law as was provided under the Industrial Disputes Act the Government therefore, cannot make any reference of dispute on the subject of contract labour under the provisions of Section 10 of the Industrial Disputes Act. The dispute which was referred to the Tribunal in the instant case were, it was held, such dispute which were covered

under the provisions of the 1970 Act and can be dealt with only under the provisions of 1970 Act which was special Act and reference under the Industrial Disputes Act was not maintainable and was without jurisdiction. The dispute referred was :

"Whether the following ten discharged employees who were represented by the Thekedar Mazdoor Union, Chawani, Kota were employees of M/s. Shriram Chemicals Industries, Kota or not? If yes, whether the discharge of the said employees by the Manager, Shriram Chemicals Industries, Kota is valid and legal? If not, to what relief the workers are entitled?"

19. The decision of the Kerala High Court in the case between Cochin Shipyard, Ltd. and Industrial Tribunal reported in 1990 I L.L.N Page 247 is yet another authority relied upon. Therein also the same view has been taken that the Industrial Tribunal has no jurisdiction to decide the issue because that jurisdiction is vested in the appropriate Government under the Central Act. Similar is the view taken by Andhra Pradesh High Court in *Burmah Shell Oil Storage and Distribution Co. of India Ltd. Vs. the Industrial Tribunal Andhra Pradesh* and others reported in 1975 LIC Page 165. Submission therefore, is that the present dispute could not have been referred to the Tribunal and it could not be adjudicated upon by this Tribunal.

20. The arguments advanced on behalf of the union is that it is open to this Tribunal to adjudicate upon the present dispute and reliance has been placed upon a decision of Gujarat High Court in the case between Gujarat Electricity Board, Ukai Vs. Hind Mazdoor Sabha reported in 1991 II CLR Page 60. Therein Gujarat High Court held that the terms of reference has clearly showed, that there was no demand for abolition of the contract labour and the demand was for examining the actual reality behind the facade. After piercing the veil the Tribunal would be required to examine as to whether there existed the actual contract labour system or it was only make belief. It was within the jurisdiction of the Tribunal, so held the Gujarat High Court, to examine the reality behind the facade of paper arrangement of contract labour system. The Tribunal, according to the High Court had examined the relationship between the Board and the employees elaborately and come to the conclusion that the workmen were the employees of the Board. It was found to be a findings of fact which the High Court was not inclined to disturb in its restricted jurisdiction. That was a case in which the question was whether the servants engaged by contractors who were working in Thermal Power Station, Gujarat Electricity Board, Ukai, can legally claim to be the employees of the G.E.B.

21. Reliance has been also placed upon a decision in the case of Food Corporation of India Loading and Unloading Workers' Union, Bangalore Vs. Food Corporation of India and two others reported in 1987 FJR Vol. 71 Page 79. In that case certain employees were retrenched without following the provisions of the Industrial Disputes Act, 1947. In the Writ Petition, it was held that the provisions of the Contract Labour Act do not override the provisions of the Industrial Disputes Act in regard to their dispute with the Corporation. That the Contract Labour were the workers of the Corporation for purposes of the Industrial Disputes Act notwithstanding the provisions of the Contract Labour Act. That the Contract Labour Act does not contain any provision for protecting the workmen against unlawful termination of their services by their immediate employer, and, therefore, the Industrial Disputes Act is applicable to test the validity of the termination of their service. So far as this decision of Karnataka High Court is concerned, I find, with respect, that the protection of the Industrial Disputes Act was invoked because the termination of the employees of the corporation was in violation of the provisions of the Industrial Disputes Act and on which point the Contract Labour Act was silent and did not provide any protection against unlawful termination. It is true that the provisions of Contract Labour Act were held not overriding the provisions of Industrial Disputes Act in regard to their dispute with Corporation. As pointed out earlier, the Supreme Court's decision in the case *Vepolls Pvt. Ltd. (Sumra)* held that the jurisdiction to decide matter connected with the contract labour was vested in the appropriate Government which alone could prohibit contract labour following the procedure laid down in the Act.

Here in this before me, prayer that is made is that the employees engaged by the contractors "should be shown and treated as direct employees of the management of JNPT and should be given wages, allowances and other conditions of service which are given to same, similar or equivalent categories of employees directly working with JNPT, BPT or other establishments of Port Trust from the date of their employment by JNPT through their alleged contractor". In substance, therefore, prayer is to direct abolition of intermediary or in other words this system itself of engaging workmen by contractor. All that is produced are agreements between M/s. Uran Shipyard Pvt. Ltd. and the JNPT and agreements between M/s. Seaspan Shipping and Trading Pvt. Ltd. and the JNPT. There is no material on record to show that this is only a make believe and not actual contract labour system. Admittedly these workmen have been employed by the contractor and the agreements between the contractors and JNPT are produced and in the absence of any such material it would not be possible to accept the submission made on behalf of the union that it is make belief arrangement.

22. Decision of the Supreme Court in the *Standard Vacuum Refining Co. of India Ltd. Vs. Their Workmen* and another AIR 1960 S.C. 948 is delivered on 6th April, 1960 much prior to the enactment Contract Labour Act, 1970 was placed on statute book.

23. Decision in M. M. R. Khan's case (AIR 1990 S.C. 937) is, with respect not relevant for the decision of the point in hand.

24. One more authority in the case between Shri Yovan, India Cement's Employees Union and another Vs. Management of India Cements Ltd. and others reported in 1993 AIR SCW Page 4365 is relied upon on behalf of the union. I find that it is with regard to the appropriate Government which can make a reference of dispute for adjudication. I do not think here in this case that could be of any assistance to the union.

25. Xerox copy of an affidavit filed by Deputy Manager, S. K. Kaul in the High Court in Writ Petition No. 1630 of 1994 is produced to show that contradictory stand is being taken by the management in this Tribunal. It is true that it is mentioned in (ii) that an industrial dispute is raised and adjudication is pending with the concerned authority that is Ministry of Labour. That is only a statement of fact. That does not in my view take a stand contrary to what is now contended on behalf of the management. On reading affidavit it is found the management has been consistently taking a stand which is now taken.

26. It is true that the union may have a genuine grievance about the working of such a system even after the enactment of Contract Labour Act way back in the year 1970 but the remedy lies, it appears elsewhere. The two decisions to which reference has been made *Catering Cleaners of Southern Railway Vs. Union of India* and others reported in 1989 Sumr. (2) Supreme Court Cases Page 99 are rendered in Writ Petitions and directions given. What is before me is a dispute referred for adjudication under Section 10(1)(d) and it is there that the difficulty arises. In the decision in *Munna Khan's case* the direction given is to the Central Government to take appropriate action under Section 10 of the Contract Labour (Abolition and Regulation) Act.

27. The relief cannot be granted by the Tribunal. Award accordingly.

R. G. SINDHAKAR, Presiding Officer

सई दिल्ली, 4 जनवरी, 1995

का.प्र. 199.—प्रीक्षणीक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिंदुस्तान कापर लिमिटेड के प्रबंधक के संबंध नियोजकों और उनके कर्मचारों के बीच, मतभेद में निश्चित प्रीक्षणीक विवाद में केन्द्रीय सरकार प्रीक्षणीक अधिकरण,

नं. 1 धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-1-95 को प्राप्त हुआ था।

[संख्या एल-43012/16/93-आई आर (त्रिविध)]

बी०एम० डेविड, डेस्क अधिकारी

New Delhi, the 4th January, 1995

S.O. 199.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award of the Central Government Industrial Tribunal, No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Hindustan Copper Ltd. and their workmen, which was received by the Central Government on 4-1-1995.

[No. L-43012/16/93-IR (Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under Section 10(1)(d) (2-A) of the Industrial Disputes Act, 1947

Reference No. 237 of 1994

PARTIES :

Employers in relation to the management of Hindustan Copper Ltd.

AND

Their Workmen.

PRESENT :

Shri P. K. Sinha, Presiding Officer.

APPEARANCES :

For the Employers—None.

For the Workmen—Shri G. Prasad, Advocate.

STATE : Bihar

INDUSTRY : Copper

Dated, the 16th December, 1994

AWARD

By Order No. L-43012/16/93-I.R. (Misc.) dated 30-10-94, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Hindustan Copper Ltd. in dismissing Shri M. C. Lohar, Senior Fitter is justified? If not, to what relief, the workman is entitled to?”

2. The order of the reference was received in this Tribunal on 18-10-1994. Thereafter the case was fixed on 15-12-1994 for taking steps by the parties. Shri G. Prasad, Advocate, appearing on behalf of the workman filed written statement on 15-11-1994.

3. Thereafter, on 15-12-1994 Shri G. Prasad Advocate, appearing on behalf of the workman pointed out the averments in the written statement of the workman. Manik Chand Lohar signed by him as well as his Advocate, which against which the workman also had moved the Hon'ble High Court at Ranchi Bench in C.W.J.C. No. 3726/93 (R) in which their Lordships of Hon'ble Court had been pleased

to quash the dismissal. Sri Prasad submitted that as per order of the Hon'ble Court the management has already reinstated the workman into service. Therefore, now no dispute exists between the two parties. Sri Prasad submitted before this Tribunal to render a 'no dispute' award in this case.

4. I perused the written statement of the concerned workman as well annexed order of the Hon'ble High Court. Workman has admitted that now no dispute existed.

5. Accordingly, I rendered a 'no dispute' award in the present reference case.

P. K. SINHA, Presiding Officer

नई दिल्ली, 4 जनवरी, 1995

का.आ. 200.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबंध में निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण अर्लैपे के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-95 को प्राप्त हुआ था।

[संख्या एल-12012/371/91-आई आर. (बी-II)]

बी. के. शर्मा, डेस्क अधिकारी

New Delhi, the 4th January, 1995

S.O. 200.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, ALLEPPEY as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workmen, which was received by the Central Government on 3-1-95.

[No. L-12012/371/91-IR(B-II)]

V. K. SHARMA, Desk Officer

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL, ALLEPPEY,

(Dated this the 19th day of December, 1994)

Present :

Shri K. Kanakachandran, Industrial Tribunal.

I. D. No. : 13/92

BETWEEN

The Regional Manager, Union Bank of India, Regional Office, 1st Floor, Union Bank Bhavan, P.B. No. : 3667, M. G. Road, Ernakulam, Cochin-682 035.

AND

The worker of the above concerned represented by the General Secretary, Union Bank of India Employees' Union C/o, Union Bank of India, Panampally Nagar, Cochin-682 016.

Representations :

For Management : Sri B. Reghunandanan, Advocate, Thottakkat Road, Ernakulam, Kochi-682 011.

For Union : M/s. H. B. Shenoy & G. P. Joy, Advocates, 'VATSAL', 39/187, Krishnaswamy Road, Ernakulam

AWARD

1. The Government of India, by the reference order dated 26-3-1992 (No. : I-12012/371/91-IR(B.II)) had referred the following dispute for adjudication by this Tribunal.

"Whether the demand of Union Bank Employees Union (Kerala) that Mrs. V. Geetha, Telephone Operator-cum-clerk, Union Bank of India, Cochin main branch, should be allowed to work as clerk by rotation of duties with other clerk-cum-telephone operators is justified? If so, what relief the workman is entitled to?"

2. In the claim statement filed by the union it is stated that the concerned worker was appointed in the services of the management bank as a Clerk-cum-Relieving Telephone Operator at the Cochin Main branch of the Bank by an order dated 24-9-1983. She was posted there as a substitute for one A. R. Jyothirmayi who was working then as a Head Clerk and later promoted and transferred as Special Assistant. The worker concerned was appointed as a Clerk-cum-Relieving Telephone Operator by the management Bank with specific instruction to the Cochin main branch to allocate her duties in such a way that her services could be utilized as a Clerk as well as Relieving Telephone Operator when the permanent incumbent proceeded on leave. She was eligible to get only the Relieving Telephone Operator's allowance of Rs. 16/- and not the higher rate of Officiating allowance. In November 1983 the management unilaterally changed her service conditions to her detriment without any notice to her and she was posted exclusively as a Telephone Operator in the place of the regular Telephone Operator. In that process, the regular Telephone Operator was posted exclusively as a Clerk in her place. The worker submitted several representations to the management, but these were of no use and no settlement could also be arrived at during the conciliation proceedings. The posting of her exclusively as Telephone Operator is illegal and unjustifiable and violative of All India Awards and bipartite settlement existing in the Banking Industry. While doing the discriminatory act, the management had favoured regular Telephone Operator and had given him the change to work as a Clerk. The worker herein is also entitled to work as a Clerk by rotation. As per the Rules/practice prevailing in the management bank, the employees are to be rotated from desk to desk periodically and regularly once in every 6 months. Although this rotation is strictly followed in the case of all other employees in the Bank, it is not being followed in the case of this worker alone. It is further submitted that the services of the worker concerned and other workmen employed under combined designation of Clerk-cum-Telephone Operator must be utilized both as the Telephone Operator and as Clerk. In fact there is no difference between Telephone Operator-cum-Clerk and Clerk-cum-Telephone Operator and it is exactly the same as Typist-cum-Clerk or Clerk-cum-Typist. Therefore the plea of the worker, is to allow her to work as Clerk on rotation with other Clerk-cum-Telephone Operators.

3. The management in their written statement has stated that the worker Geetha was appointed as a Telephone Operator-cum-clerk as per the appointment order dated 1-8-1983. The order issued to her had been accepted by her. It was clearly stated in the said order that she would be paid special allowance of Rs 31/- for operating the Telephone Board. Her duties include operation of Telephone Board, attending of clerical work such as maintenance of Telephone Register, Scrutiny of Telephone bills etc., because of that, she was designated as Telephone Operator cum-Clerk. The statement that she was posted as a substitute for A.R. Jyothirmayi is also disputed by the management. According to them in fact, the above said Jyothirmayi who was a Head Clerk was promoted and transferred from Cochin Branch. When the worker joins services of the management at Cochin main branch, the said branch was having another Telephone Operator by name C. N. Krishnamoorthy and he was much senior to her. The management used to utilize the services of Geetha initially as a Relieving Telephone Operator. But knowing about the posting of a Telephone Operator-cum-clerk in the Cochin main branch C. N. Krishnamoorthy made request for redesignation of his post. Only because the services of two Telephone Operators were not required in the Cochin main branch, the request of Krishnamoorthy was acceded and his post was redesignated as Clerk-cum-Telephone Operator. It has been specifically stated in that order that he would be paid special allowance for Telephone Operator only

for the days he performed the duties of Telephone Operator on pro-rata basis and no fixed allowance would be paid to him. Since the appointment of the worker was as a Telephone Operator-cum-Clerk and her duty is to operate Telephone PBX, there is no anomaly in assigning the duties of the Telephone Operator to her. The designation of the worker cannot be changed due to administrative reasons and also for want of substitute Telephone Operator. Regarding the rotation of employee from desk to desk, it is contended that such rotation is not applicable in the case of employees holding designation of Telephone Operator-cum-Clerk, Telex Operator, Stenographer etc.. Moreover there is no rule by which the services of the Telephone Operator-cum-Clerk could be rotated amongst Clerical hands. There is vast difference between the duties of Telephone Operator-cum-Clerk and Clerk-cum-Telephone Operator. The primary duty of Telephone Operator-cum-Clerk is to operate Telephone PBX and to attend the connected clerical works. Whereas the primary duty of Clerk-cum-Telephone Operator is to attend the general clerical work and to work as a Relieving telephone operator as and when the permanent Telephone Operator goes on leave. The length of service of the worker does not give her any right to get opportunity to work as a Clerk. Krishnamoorthy whose designation was changed as a Clerk-cum-Telephone Operator was senior to her. Therefore, according to the management, there is no merit in the claim made by the union.

4. The concerned worker and management witness had tendered evidence. Four documents marked on the side of workmen were produced by the management on the basis of the direction given by this Tribunal on a petition filed by the union. Ext. W1 to W4 were the documents in the custody of the management. Those documents and also other documents produced at the time of evidence will only vindicate the stand of the union regarding the state of affairs.

5. Ext. W1 is a communication dated 24-9-1983 given by the Regional Office to the Manager of Cochin Branch. In that, designation of the worker is shown as Clerk-cum-Relieving Telephone Officer. Ext. W2 is another communication of the same date which will also show that her designation initially was Clerk-cum-Relieving Telephone Operator. Ext. W3 is a communication dated 27-9-1983 and in that also she was designated as Clerk-cum-Telephone Operator. In Ext. W3 it was directed that she should be posted as a substitute for one A. R. Jyothirmayi who was then working as a Head Clerk. It was also directed that the worker concerned should be allocated duties in such a way that her services could be utilized as a Clerk as well as Relieving Telephone Operator when the permanent incumbent proceeded on leave. It is also instructed therein that she would be given only Telephone Operator's allowance of Rs. 16/- only and not the higher officiating allowance. Ext. W4 is a communication dated 1-10-1983 which is also a communication from the Regional Office to the Recruitment Section of management Bank at Bombay. It is relevant to extract the following from Ext. W1 :

"Consequent upon the upgradation of Head Clerk to Special Assistants and the resultant transfer of Mrs. A. R. Jyothirmayi we had to provide a substitute and hence Mrs. Geetha is treated as substitute for Mrs. Jyothirmayi without adding to the numerical strength of clerical staff."

6. From the above communication it is very clear that she was posted as one among the clerical staff although her initial appointment was Clerk-cum-Relieving Telephone Operator. On the basis of this communication, the concerned worker was working as Clerk in the Cochin branch till the regular Telephone Operator there was re-designated as Clerk-cum-Telephone Operator. The management contention that her appointment was only as Telephone Operator-cum-Clerk is also belied when we look at some other communications also. Ext. W6 series are the salary sheets of few months in the year 1994. In that also she is designated as Clerk-cum-Telephone Operator. In the proceedings sanctioning house loan to the worker also, she is designated as Clerk/Telephone Operator. That communication is dated 8-9-1989. All these documents will only show that she was all along treated as Clerk-cum-Telephone Operator. Her posting at Cochin branch was mainly in a Clerical post on account of the vacancy arose in Clerical post, and that is evident from Ext. W4. Therefore the management stand on the contrary

cannot be acceptable at any rate. There is no record to show that a person who was appointed as Clerk-cum-Telephone Operator shall not be eligible to work in various section of the management. In Ext. W5 Manual of Office Procedure it is provided that works in the branch are to be rotated to desk to desk periodically and regularly. It is further provided therein that the work should be allotted to the employees on the basis of their suitability and aptitude and there should be no water tight compartment between various categories of staff.

7. At the time of hearing the learned counsel for the management has submitted that the designation of a particular employee has got much significance. According to the learned counsel the nature of duties to be performed by the Clerk-cum-Telephone Operator and Telephone Operator-cum-Clerk are entirely different. The principal duty to be performed by the incumbent is depending on primacy given to the post. If one is posted as Telephone Operator-cum-Clerk, his principal duty is to function as a Telephone Operator. Of course, occasionally as Clerk, as per requirement or as per any temporary arrangement. In so far as Clerk-cum-Telephone Operator concerned, principal duty is that of Clerk and whenever the Telephone Operator is on leave or absent, as a Relieving Telephone Operator such employee will have to function. If that be the position, as explained by the management counsel, some kind of significance has to be attached to Ext. W1 to Ext. W4. Those are inter-departmental communications, of course, produced by the management as directed by this Tribunal on the petition filed by the union. In all those communications the concerned employee's designation is shown as Clerk-cum-Telephone Operator. MW1, while tendering evidence before this Tribunal, has stated that the designation shown as Telephone Operator-cum-Clerk was on account of a mistake. If that be the position, under what circumstance, the Regional office of the Management bank had written to the Head Office at Bombay stating that the employees concerned herein was posted in the Clerical category as a substitute for a Head Clerk who was promoted as the Special Assistant. It is further stated in Ext. W4 that on account of such substitution, there was no need for increasing the number of Clerical posts in the Bank. There is no evidence which would show that such a proposal had been rejected by the Head Office at any time later. That only means she could continue as a Clerk-cum-Telephone Operator.

8. The union has built up their case on the basis of Ext. W1 to W4 and also Ext. W6 series and Et. W7. Ext. W6 series are the latest pay slips in the case of the worker. In those slips also, she is designated as Clerk-cum-Telephone Operator. In the order sanctioning house building loan also (W7) she is shown as Clerk-cum-Telephone Operator. All these will indicate that she was treated as a Clerk by all concerned. To counter the evidence of union, the management had produced Ext. M1 which is the photocopy of the appointment order given to the worker concerned which is dated 1-8-1983. It is true, in that, designation was shown as Telephone Operator-cum-Clerk. Ext. W1 to W4 and W6 and W7 are of later period. In this context it is to be noted about the necessity of posting another "Telephone Operator-cum-Clerk" having the principal duty of the Telephone Operator at Cochin branch when already there was a Telephone Operator. Only after the posting of the worker herein at Cochin Branch, the Telephone Operator there one Krishnamoorthy had submitted an application for change of his designation on 7-9-1983. It appears that management had readily accepted his application and changed his designation as a Clerk. By such conversion the principal duties to be performed by the worker concerned Geetha were changed without any notice to her. Such action can be characterised as a violation of Sec. 9(A) of the Industrial Disputes Act. C. N. Krishnamoorthy, who was working as Telephone Operator in the Cochin Branch, was designated as a Clerk within days. That does mean change of designation is possible and initial designation is of no significance. It is clearly stated in Ext. W5 Manual of Office Procedure that duties and functions of each staff should be changed periodically.

9. While tendering evidence the worker concerned has stated that she is a graduate and she had already crossed about 10 years of service. Since she was compelled to perform the duties of only Telephone Operator all these years, she did not get opportunity to work in any of the sections of the Bank and because of that she could not gain experience and could not write for any Bank Test for promotion. She had

lost all opportunities to become an Officer. There is no case for the management that the concerned employee is not qualified to work exclusively as a Clerk. There is also no case for them that she is technically qualified to operate the PBX system in the Bank. She is also having the same qualification as in the case of several other Clerks working in the Bank. In view of that it is only fair and proper to post her also in the Clerical sections so that she could avoid the monotony of doing the work of a Telephone Operator during her entire career. Moreover a qualified employee who is having required number of years of service shall not be deprived of the chance for competing in the Officer Test merely on account of the lack of opportunity to know different nature of work in a Bank. Ext. M2 will only indicate that there is no strict rules prohibiting change of designation. Therefore the worker concerned shall be posted as a Clerk in Cochin Branch or any other of the Management Bank forthwith.

Award is passed accordingly.

Dated this the 19th day of December, 1994.

K. KANAKACHANDRAN, Industrial Tribunal

APPENDIX

(I. D. No. 13/92)

Witness examined on the side of the Management :—

MW1 : H. K. Lodaya.

Witness examined on the side of the union :

WW1 : Geetha, V.

Exhibits marked on the side of the Management :—

M1 : Copy of the appointment letter dated 1-8-1983.

M2 : Copy of the letter dated 28-10-1983 of Department of Personnel, South Zone-1.

Exhibits marked on the side of the Union :—

W1 : Letter dated 24-9-1983 of Regional Office, Ernakulam.

W2 : Letter dated 24-9-1983 of Regional Office, Ernakulam sent to the Head Office.

W3 : Letter dated 27-9-1983 of Regional Office, Ernakulam.

W4 : Letter dated 1-10-1983 of Regional Office Ernakulam sent to the Head Office.

W5 : Copy of Manual of instruction—Page NO : (18) and (19).

W6 : Computer Salary Sheets. (series)

W7 : Copy of order sanctioning House Loan to Smt. V. Geetha.

नई दिल्ली, 4 जनवरी, 1995

का.आ. 201.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबंध में निदेश और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-1-95 को प्राप्त हुआ था।

[संख्या पत्र-12012/37/85-डी. II ए/आईआरबी I]
राजा लाल, उर्स्क अधिकारी

New Delhi, the 4th January, 1995

S.O. 201.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal,

Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India, and their workmen, which was received by the Central Government on the 2-1-95.

[No. L-12012/37/85-D.II.A/IR-B.I.]
RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU MADRAS

Wednesday, the 11th day of May, 1994

PRESENT :

Thiru K. Sampath Kumaran, B.A. B.L., Industrial Tribunal.
Industrial Dispute No. 94/1985

(In the matter of the dispute for adjudication under Section 10(1) (d) of the Industrial Disputes Act, 1947 between the Workman and the Management of State Bank of India, Trivandrum).

BETWEEN :

Shri K. V. Narayanan Nair,
Kariveetil House,
P.O. Cherumundassery,
Via Ambalapara,
Ottapalam.

AND

The Regional Manager (Region II),
State Bank of India,
Post Box No. 5004,
Trivandrum-695 023.

REFERENCE :

Order No. L-12012/37/85-D.II.A, dt. 20-12-85, Ministry of Labour, Govt. of India, New Delhi.

This dispute coming on for final hearing on the 8th day of December, 1993 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru R. Arumugham for Tvl. Aiyar and Dolia, Advocates appearing for the Workman and of Avl. T. S. Gopalan, P. Ibrahim Kalifulla, S. Ravindran and N. C. Srinivasa Varadhan, Advocates appearing for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following.

AWARD

This reference has been made for adjudication of the following dispute :

"Whether the action of the Management of State Bank of India, Trivandrum in dismissing from their service Shri K. V. Narayanan Nair, Head Clerk, Ottapalam branch with effect from 10-9-84 is justified? If not, to what relief the workman concerned is entitled to and from what date?"

The petitioner filed the following Claim Statement.—The petitioner was employed in the respondent-bank and has an unblemished past record of service. The respondent issued a memo dated 3-3-82 alleging that the petitioner indulged in the practice of regular borrowings and guaranteed repayment of loans of 3rd parties without the specific approval of the bank and also made misrepresentation of facts, declaration of false statements with ulterior motive, malafide acts with the intention of securing loans to which he was not entitled, and misused the facilities offered by the bank. The charge sheet dated 29-10-82 was issued to the petitioner and the petitioner submitted his explanation on 28-11-82 denying the charges. In the enquiry that was conducted, the petitioner was denied reasonable opportunities. Principles of natural justice were not followed. The copies of various documents were not shown to him, and no opportunity was given to him to peruse them. The enquiry is not fair and

proper. The Enquiry Officer acted partially. There is no material evidence against the petitioner. But, yet the Enquiry Officer gave a perverse finding that except two charges other charges are proved. On the basis of the perverse finding, the respondent by the letter dated 28-5-84, asked the petitioner to appear for a personal hearing on the proposed punishment of dismissal without notice. The petitioner appeared for personal hearing on 12-6-84 and presented his written submission. By the order dated 21-6-84 the respondent imposed the punishment of dismissal from service. The appeal preferred by the petitioner on 2-7-84 was dismissed. The order of dismissal is illegal and is liable to be set aside. The Enquiry Officer himself has given finding that charges I(a), II(a), III(c) and III(d) have not been proved. He held that charges I(b), I(c), II III(b) and IV are proved.

3. Charges I(b), I(c) and II relate to his chit liabilities and not connected with the employed in any way. He was personally responsible for the financial obligations to the funds, which they have recovered from his own salary through Court attachment orders and not from the bank. For the defaults committed in the monthly chit, the respondent cannot take any punitive action against him.

4. Charge III(b) relates to the loan availed by him. The property is in the name of his father who is still alive. The land tax receipt and encumbrance certificate show that he is not the co-owner or the exclusive owner. In view of the instructions contained in Staff Circular No. 39/80, he is entitled to the loan. The finding of the Enquiry Officer that Charge No. IV has been proved is not based on documentary evidence. The Enquiry Officer failed to consider the supplementary agreement wherein the time limit was shown. There was no act of misrepresentation, suppressing of facts, declaration of false statements with ulterior motives, and malafide acts with the intention of securing the loan. The respondent failed to consider the gravity of misconduct and other aggravating or extenuating circumstances. This is violative of the provisions of the Sastry Award. This is a case of victimisation. The petitioner is an active member of the State Bank Staff Union, and in view of his active involvement, he is charge sheeted with an intention to remove him from service. He has a clean record, which was not considered by the respondent. Therefore, this Court may pass an award holding that dismissal of the respondent is not justified, and directing the respondent to reinstate the petitioner into service with continuity of service, full back wages and other attendant benefits.

5. The respondent filed the following Counter:—Being a financial institution, the respondent expects its employees not to incur pecuniary liabilities beyond their means. As and when contingency arises, the bank also requires the employees to submit statements of Assets and Liabilities. This is insisted upon at the time of consideration of any application for loans, and when the bank comes to know that the employee was in debts. In the respondent-bank, there is a housing loan scheme by which an eligible employee is entitled to get loan at concessional rate of interest. This loan facilities is not available to one who is already having a house. Without obtaining the specific approval of the bank, the petitioner raised loans for himself, and/or guaranteed loan of 3rd parties. He defaulted in payment of loans which resulted in decrees being passed against him in Courts. The total debts for which decrees were passed against him in 1981 were of the order of Rs. 79,305. It was considered that the total debts incurred were far beyond his known means of financial ability for repayment.

6. On 26-12-81, the petitioner submitted a statement of Assets and Liabilities, showing on the Assets side that he has 70 cents of land in his name and a share in 1 acre and 3 cents with a residential building. On the liabilities side, he showed only a sum of Rs. 825 the amount to be recovered from salary by Court attachment orders.

7. In April, 1976, petitioner applied for a Provident Fund withdrawal of Rs. 845 for the construction of house. In his application he stated that he was having in possession land in Survey No. 126/8 Amabalapara Panchayat, and that he has a right to build a house on that site. He also stated that he had already commenced the foundation work. A certificate issued by Tahsildar, Ottapalam shows that the petitioner had constructed a new house in Survey No. 126/6-A, Amabalapara Village, and was staying in that house. The certificate from the Executive Officer of the Amabalapara village shows

that the house 1/127 in S. No. 126/6-A has been registered in the name of the petitioner. This number should actually be 126/6-A.

8. On 14-10-81, the petitioner made an application for a housing loan of Rs. 40,000 and received the full disbursement of loan amount of Rs. 39,000 for the purchase of 57-1/2 cents of land in S. No. 56/9, Mundamakuram, Parathurata Desam, with a ready built house from Saraswathy Ammal. In that application he did not disclose any interest in the property in 126/6-A Ambalapara Village where he had already constructed a house with the money drawn from the Provident fund. The petitioner also suppressed the total liability under the various Court decrees passed against him. On 5-12-81, he approached the Personnel Officer of the Regional Office and represented to him that as per the agreement for sale, the transaction has to be concluded before 15-12-81 and requested for urgent sanction of the loan at commercial rate of interest. On the basis of representation made by him, the loan was sanctioned. If he had disclosed all the materials regarding his financial liabilities, and the fact that he was already owning a house, loan would not have been sanctioned.

9. A charge sheet dated 29-10-82 was issued to the petitioner levelling 6 charges. The domestic enquiry was held on 12-10-83 in which the petitioner fully participated and was represented by an official of the State Bank Staff Union. Six witnesses were examined in support of the charges and petitioner examined 4 witnesses. On the basis of the materials placed before him, the Enquiry Officer found that the petitioner was guilty of the following charges:

(Ib) The Court attachment orders passed against the petitioner were for his liability which were unpaid and that those loans were raised or guaranteed by him without obtaining approval of the respondent.

(Ic) He had incurred debts for which decrees were passed against him for Rs. 79,305 which were considered far beyond his normal means of financial ability for repayment. He had indulged in the practice of regularly borrowing or guaranteed repayment of loans without specific approval of the bank and remained in habitual indebtedness.

II In the Statement of Assets and Liabilities, submitted by the petitioner on 5-12-81, he failed to disclose all his liabilities, with a view to conceal the same from the bank's knowledge.

III(b) While making his application dated 14-10-81 for the housing loan of Rs. 40,000 he had substantial interest in another house which was not disclosed in the application. He availed the loan for which he was not eligible, by making a false declaration.

III(c) He availed the full loan amount, fully aware that his overall debts, other loan repayment commitment, Court attachment on salary and his income would not permit him to make repayment of the housing loan. He availed the loan amount with deliberate intention to default in the matter of repayment of the Housing loan.

IV He advised the Personnel Officer in his letter dated 5-12-81 that the final settlement with the vendor has to be completed before 15-12-1981 and that the agreement would expire, and requested for urgent sanction of the loan, which was not true. He misrepresented the fact to the knowledge of the bank for speedy sanction of the loan for which he was not eligible.

10. On the basis of the findings, the punishment of dismissal was proposed and he was asked to appear before the Disciplinary Authority on 12-6-84. On 21-6-84, the Disciplinary Authority imposed the punishment of dismissal. The domestic enquiry was conducted conforming to principles of natural justice. Petitioner was given every opportunity to peruse the documents which were marked in the enquiry. He fully availed opportunity of cross-examining the witness. The findings of the Enquiry Officer are based on substantial evidence. When decrees were obtained against the petitioner on his default, in the payment of chit amount, the petitioner incurred a financial liability, which he was bound to disclose to the bank. When he failed to report the liability more particularly when his application for housing loan was pending, it attracts the disciplinary jurisdiction of the bank. It has been established that petitioner had ample interest in the property in

126/6-A, Ambalapara Village. There was suppression of material particulars on the part of the petitioner in making the application for housing loan. The plea of the petitioner that the agreement with the vendor was to expire on 15-12-81 was false, and but for that representation, the loan would not have been sanctioned in a hurry. The petitioner has made a false declaration. The charges proved against the petitioner being per se serious, warrant the punishment at dismissal. It cannot be stated that the punishing authority had not considered the relevant facts before imposing the punishment. The acts of misconduct proved against the petitioner were serious to impair the confidence reposed by the respondent in the petitioner. The punishment is not excessive. The petitioner is not entitled to the relief of reinstatement. An award may be passed rejecting the claim of the petitioner.

11. The issues that arise for consideration in this Industrial dispute are :

1. Whether the enquiry against the petitioner was conducted in a fair and just manner ?
2. Whether the charges against the petitioner have been proved.
3. Whether the punishment imposed upon the petitioner is not just and proper and is also proportionate to the misconduct proved ?

12. The Issues : 1 to 3 : The petitioner was an employee of the respondent State Bank of India. The charges framed against the petitioner on 29-10-82 under Ex. M. 18 are as follows :

I(a) : That the monetary liabilities of the petitioner to 3rd parties have placed the bank under pecuniary obligations for payment towards Court attachment orders, and the monthly aggregate of such payments was Rs. 875/- recovered from the salary payable to the petitioner, and that they are in force.

I(b) : That the attachment orders referred to above are in pursuance of money decrees obtained against the petitioner for his liabilities to financial institutions, Chit contractors, and money lenders which remained unpaid, and that the petitioner had not obtained bank's specific approval for having raised the loans for himself or guaranteed the loans due from 3rd parties, which are all covered by these decrees of Court.

I(c) : The total debts for which decrees were passed against the petitioner was to the extent of Rs. 79,305 and that the total debts incurred by him are considered far beyond his normal means and financial ability to repay. It is alleged that he thus indulged in the practice of regular borrowings or guaranteed repayment of loans of 3rd parties without specific approval of the bank, and remained in habitual indebtedness of sums beyond his means resulting in money decrees against him and attachment orders on his salary.

II--That on 26-12-81, the petitioner submitted to the Branch Manager of the State Bank of India, Ottapalam Branch, a statement of Assets and Liabilities not mentioning all his liabilities but concealing the same. It is alleged that he had submitted a false statement of his assets and liabilities.

III(a)--That the petitioner submitted an application dated 14-10-81 for a housing loan of Rs. 40,000/- from the bank, received Rs. 39,000/- purchased 57-1/2 cents of land with a ready built house from Saraswathy Amma who is his sister-in-law. But did not disclose his relationship with the vendor.

III(b)--That the petitioner did not disclose the substantial interest which he had in another house in the application for the loan. It is alleged that he did so with a deliberate intention to avail the loan, which he would not have been entitled to otherwise.

III(c)--That the petitioner availed the full loan amount of housing loan, while he has fully aware that he cannot repay them. It is alleged that he deliberately availed the full loan amount with the intention to commit default.

III(d)—That he had not taken possession of the house and the site reported to have been purchased with the loan amount. He had also diverted the loan for other purposes and thereby misused the facility granted to him.

IV. The petitioner reported to the Personnel Officer, Regional office, Trivandrum by his letter dated 5-12-81, that the agreement which he had entered with the vendor had to be completed by 15-12-81, that the agreement would expire on that date, and therefore requested for urgent sanction of the loan. It is alleged that this representation is not true, that the agreement did not expire on that date and he had misrepresented the facts and brought pressure on the concerned authorities for expeditious sanction of the loan. It was charged that if the actions enumerated about are proved, they would amount to acts of gross misconduct, highly prejudicial to the interests of the bank, and involving the bank in loss.

13. This charge memo was preceded by a memo issued on 3-3-82 under Ex. M.16 making similar allegations. The petitioner had replied to Ex. M.16 under Ex. M.17 dated 12-3-92, and to the charge memo on 26-11-82 under Ex. M.19.

14. With regard to charges I (a) & (b), the petitioner while admitting that there were attachment orders for the recovery of Rs. 875/- p.m. from his salary, contended that this did not in any way involve the bank in any financial obligation to anybody. According to him the amounts were recovered only from his salary. With regard to charge I(c), the petitioner stated that the decree amount will not be of the order of Rs. 79,505 but will only be to the extent of Rs. 52,000. He has also stated in Ex. M.19 that the liability has been reduced by Rs. 7,075/- and that the existing attachment orders will be finally settled before 31-12-84, reducing his liability further to a great extent.

15. With regard to the second charge, the petitioner has stated that the allegation that he did not disclose his liabilities is not correct, but he had mentioned, that a sum of Rs. 825/- p.m. has to be recovered from him in pursuance of the attachment orders, though had not mentioned the exact amount of the decree.

16. With regard to the Charge No. III(a) the petitioner stated that the allegation that he had suppressed the relationship between him and his vendor is not correct. According to him, the vendor Saraswathi Amma is his Sister-in-law and under Staff Circular No. 39 dated 30-5-80, the Sister-in-law is not a near relative and therefore he need not disclose his relationship to her. With regard to charge III(b) he stated that he does not own any other house except the house in which he is staying. The title to which vests in his father, who is alive. With regard to Charge III(c) he denied that he availed the loan of Rs. 39,000/- with the intention of defaulting the instalments. With regard to Charge III(d) he stated that it is true that he has not shifted his residence to the house purchased by him but that is because of the fact that he has to look after his aged and ailing father. He has denied that he had diverted the funds for other purposes.

17. With regard to charge no. IV, the petitioner has stated that though it is true that he had advised the Personnel Officer on 5-12-81 that the agreement had to be completed by 15-12-81, as otherwise it will expire, and that though there was no specific time for payment of the purchase price under the original agreement dated 22-10-1981 under a subsequent agreement dated 15-11-81, he had agreed to pay the amount by 15-12-81. Therefore, the petitioner contends that he is not guilty.

18. But the Enquiry Officer found him guilty under his order dated 23-3-84, of the charges I(b), I(c), II, III(b) and IV. He found him not guilty of the charges I(a), III(a), (c) and (d). But the disciplinary authority found that the petitioner is guilty of charges I(a), III(a) and III(d) also. But, with regard to Charge No. III(c), (of which the Enquiry Officer had found him to be not guilty) the Disciplinary Authority merely observed that in view of his conclusion under Charge No. III(b) that the employee intended to defraud the bank, whether the employee is in a position to meet the repayment commitments is immaterial for arriving at the punishment to be inflicted. With regard to the other charges, he concurred with the Enquiry Officer, and proposed to inflict the punishment of dismissal. In his order, he has also informed that he proposed to give a personal hearing to the

employee on 12-6-84. It is seen that he had given a personal hearing on 12-6-84 and had confirmed the punishment of dismissal.

19. I will first deal with the Charge I(a). The charge is that the monetary liabilities of the employee to the 3rd parties have placed the bank in a pecuniary obligation for payment towards several Court attachment orders to the extent of Rs. 875/- p.m. from the salary and allowances payable to the employee. The very charge itself reveals that the amounts were recovered from the salary and allowances payable to the employee in question. It is not as if the respondent-bank was made to pay any money from its own funds. May be there are certain attachment orders under which the respondent had to withhold certain amounts specifically towards the attachment orders and remit them, into the concerned Court. But, the recovery was only from the salary of the employee. Therefore, when it is not shown that any amount belonging to the respondent bank had to be remitted into or atleast the bank was called upon to meet the liability of employee in question, it cannot be contended that the bank was placed in a pecuniary obligation for payment of the debts of the employee. The Enquiry Officer rightly held that this charge is not proved. But, the Disciplinary Authority by its order dated 18-6-84 disagreed with the enquiry officer and held that this charge has been proved. The observation of the Disciplinary Authority that under number of attachment orders recovery has been made from the salary and allowances of the employee, and the possibility of further attachment orders being received by the bank would certainly have placed it in a pecuniary obligation. The employee can be found guilty for the charges levelled against him. It cannot be stated that if some more attachment orders are received that would place the bank in pecuniary obligation, and on that basis find the employee guilty. Even otherwise, the attachment orders will be issued only in respect of monies either due or payable to the employee in question. The bank cannot be and will not be made liable for any liability of an employee to pay from its own funds. Therefore, the findings of the disciplinary authority that the charge I(a) that for all intents and purposes it has been proved cannot be sustained. I find that the employee is not guilty of Charge I(a).

20. Charge I(b) is that the attachment orders referred to above were made in pursuance of money decrees against the employee for his liabilities, which remained unpaid, and that the employees had not obtained, the bank's specific approval for raising the loans either for himself or for guaranteeing loans due from 3rd parties, all of which are covered by the decrees of Courts. Exhibits M.7 to M.15 are orders of attachment passed by Courts against the employee for recovery of the decree amounts. These orders have been passed during 1980, 1981 and 1982, but, it is seen that these attachment orders have been passed in pursuance of the decrees in suits of the years 1978, 1979, and 1980. That means the liabilities in respect of which the decrees have been passed were incurred even prior to those years. It is also seen that execution petitions were filed in those matters during the years, 1980 and 1981 in pursuance of which the attachment orders were passed. So, the employee of the bank ought to have taken the approval or permission of the bank for either incurring these debts or for standing as a surety for the debts due from 3rd parties. But, the employee contends that these were not debts incurred by him at all. According to him some of the decrees were passed in respect of the Chit monies due from his or from the persons in respect of whom he stood as a surety. Therefore, the employee contends that these were not debts and therefore, there was no question of obtaining the permission of the bank. It may be that for mere joining of a chit, it may not be necessary that he should get the permission. But, once he decides to bid at the auction and take this chit in respect of which he will have to pay future instalments, or decides to purchase the chit in respect for which he had to pay money then he should have obtained the permission of the bank. He does not say that he got the permission, but only contends that it is not necessary for him to get the permission. Therefore, the findings of the Enquiry Officer as well as Disciplinary Authority that the charge I(b) is proved against him have to be accepted.

21. Charge I(c) is that the total debts for which decrees were passed against the employee by the Courts are to the extent of Rs. 79,305 that the same is beyond his normal means and financial ability for repayment. It is alleged that he has indulged in the practice of regular borrowings for his own use, guaranteed the repayment of loans of 3rd parties

without specific approval of the bank and remained in habitual indebtedness, resulting in money decrees and attachment orders against him. First of all, the petitioner-employee contended that these were not debts and such a contention cannot be accepted. Though, the amounts might have related to chit transactions, they have resulted in money decrees in view of his default in the payment. Therefore, these are decree debts and the contention that they are not debts cannot at all be accepted. The next contention of the petitioner is that the decree debts were not to the order of Rs. 79,305 but were only to the extent of Rs. 52,000. Whether it be Rs. 79,305 or Rs. 52,000 it is clear that he has suffered decrees. But, the total of the decree amounts mentioned in Exhibits M. 7 to M. 15 shows that the petitioner employee is not correct. It is in this connection that the management has filed Ex. M. 24 showing that the sum of Rs. 91,238.85 is the decree amount and the monthly instalments to be recovered was Rs. 1,395. It was contended by the petitioner that this document was not furnished to him. Even eschewing this document it is evident that the petitioner had suffered decrees for even more than the amount mentioned by the respondent. But, this document Ex. M. 24 before this Court, which was marked as Ex. P. 15 before the Enquiry Officer was itself put to the petitioner during his evidence in Chief examination and he was asked to explain that. It was put to him in the chief examination that his total liability is Rs. 91,238.85 and he was asked to say what steps he has taken to recover the amounts from the other persons. He had replied that he had sent letters to his principal debtors that nobody has sent any reply, and that he has not taken any other steps. So, even though this document was objected to now as not having been furnished, it is clear that even in the chief examination of the petitioner before the Enquiry Officer, the petitioner has given evidence with particular reference to this document. So, the contention that this document was not furnished to him will be of no avail to him now. But, as pointed out already, even in his reply to the memo issued by the bank under Ex. M. 16, the petitioner had stated in Ex. M. 17 that the total value of debts will be only Rs. 52,000. So, it is evident that even if, we take that his liabilities were only to the extent of Rs. 52,000 he was not able to pay them and these debts were beyond his means of repayment because not only suits were filed, but decrees were passed. Even after the decree, he could not make payment towards the decrees by himself and therefore execution petitions were filed and attachment to his salary was ordered in several suits as pointed out already. Therefore, it is clear that he had indulged in the habit of borrowing for himself or had guaranteed debts of others and had thereby remained in habitual indebtedness of sums beyond his means of repayment, and suffered decrees and attachment orders. Therefore, the finding of the Enquiry Officer and the Disciplinary Authority that this charge has been proved has to be accepted.

21. The learned counsel for the petitioner contended that the salary certificates in respect of petitioner for months September, 1981 (Ex. M. 20), December 1981 (Ex. M. 21) and October 1982 (Ex. M. 26) and statement of his other liabilities (Ex. M. 22) particulars of gold jewel loans availed by the wife of the petitioner (Ex. M. 23) were not furnished to him and therefore, they ought not to have been relied upon. But, the salary certificates related to the salary already drawn by the petitioner. Similarly, the statement of other liabilities is also his own liabilities and the jewel loan was availed by his wife and the particulars have been given. These documents certainly must be known to the petitioner and it cannot be stated that he is prejudiced by non-production of copies of those documents. Therefore, this contention of the petitioner cannot be accepted.

22. Charge No. II is that on 26th December, 1981, the petitioner submitted a statement of assets and liabilities to the bank wherein he had not disclosed all his liabilities. This statement has been marked as Ex. M. 4. Therein the petitioner has shown the monthly instalment payable on debts payment i.e. Rs. 300 loan from Ottanalam Co-operative Bank as Rs. 1,400 payable monthly at the rate of Rs. 78 loan on FDR at Ottanalam branch as Rs. 1,800 and 5 attachment orders payable monthly at Rs. 825. These items only have been mentioned as his liabilities. But, as pointed out already, he has suffered decree debts to the extent of nearly Rs. 73,000. He has omitted to disclose the liability which according to him was only Rs. 52,000. He had shown the monthly instalments payable towards the decrees as Rs. 825. He admits that he has shown only the monthly instalments instead of show-

ing the actual value of the decrees. So, it is clear that the petitioner had deliberately omitted to mention all his liabilities in his statement dated 26th December, 1981. (Ex. M. 4). Therefore, the findings of the Enquiry Officer as well as the Disciplinary Authority that this charge has been proved have to be accepted.

23. Charge No. III(a) is that when the petitioner submitted his application for a housing loan on 14th October, 1981 for Rs. 40,000 and had received Rs. 39,000 for purchase of 57-1/2 cents of land in S. No. 56/9, Mundamakaksani Parathipara Desam, with a ready built house thereon from Saraswathi Ammal, but he had failed to disclose the relationship with the said Saraswathi Ammal, who is his sister-in-law. It is admitted by the Petitioner that Saraswathi Ammal is his Sister-in-law. But, he contends that as per Staff Circular No. 39 dated 30th May, 1980, if it is only a near relative, the same should be disclosed, and that 'Sister-in-law' is not a near relative. The Enquiry Officer accepted this contention and found him not guilty of this charge. But, the Disciplinary Authority, did not accept his contention that only if the vendor is a near relation, it should be disclosed. The Disciplinary Authority found that in the loan application Ex. M. 6, Column 13 only makes it obligatory upon the employee to mention his relationship with the vendor and does not say that it should be a near relative. But, even the Disciplinary Authority says no application can be submitted if the vendor is a close relative as per Staff Circular No. 39/80. The contention of the petitioner is that 'sister-in-law' is not included there as a close relative which is not disputed by the respondent bank. Therefore, this finding of the Disciplinary Authority that he is guilty of the Charge III(a) cannot be accepted. I accept the finding of the Enquiry Officer that the petitioner is not guilty of Charge III(a).

24. Charge III(b) is that the petitioner did not disclose in his housing loan application Ex. M. 6, the fact that he was having substantial interest in another house and had made a false declaration. A perusal of Ex. M. 6 shows that the petitioner had declared that he does not have any house or flat of his own or in which he has an exclusive interest at the place of such construction or acquisition. But, the petitioner had submitted a statement of his Assets and Liabilities under Ex. M. 3 on 3rd September, 1980. The application for the housing loan under Ex. M. 6 is dated 14th October, 1981. In Ex. M. 3, the petitioner had stated that he has ancestral property with residential building, of 1 acre, 3 cents valued at Rs. 50,000. So, even before the application Ex. M. 6, the petitioner had stated that he owns ancestral property with residential building. In his evidence he attempted to explain this by stating that this has been given by will to his Sister and mother who have been asked to give Rs. 50,000 to him and his brother. Since the property is that of his father. If that be so, he need not have included it in Ex. M. 3. Even in a subsequent statement of assets and liabilities, dated 26th December, 1981, he had shown this item as one of his assets. But he had added there the words 'his share' in the said property. This apart he had admittedly borrowed money for the construction of a house from his Provident Fund amount. This is seen from Ex. M. 2 dated 13th April, 1976. He had stated therein that money is required for construction of house in Survey No. 126/6-A, Ottanalam, and in his evidence he has attempted to say that the house has not been completed but admitted that he had not reported it to the bank. Thus, it is clear that this is only an attempt to wriggle out of the situation. The respondent has also produced Ex. M. 29 certificate issued by the Tahsildar, that in Survey No. 126/6-A of Chiramundassery desam of Ambalapara measuring 1.43 acres owned by Petitioner's father Govindan Nair petitioner had constructed a house and is residing there. The communication from the Executive Officer of the Panchayat of Ambalapara has been marked as Ex. M. 31 wherein it has been stated that the house No. IV/127 of that Panchayat has been registered in the name of the petitioner. The petitioner in his evidence stated that Ex. M. 29 is wrong and that he does not know about Ex. M. 31. But the learned counsel for the petitioner contended that the copies of these documents were not furnished to the petitioner and therefore, they cannot be relied upon. But, even eschewing these documents, it is clear on the admission of the petitioner made in his statement of assets and liabilities under Ex. M. 3 that the petitioner was already owning a house and that at the time when he applied for the housing loan under Ex. M. 6, he failed to disclose that. Therefore, it is clear that this charge III(b) is also proved, as found by the Enquiry Officer and the Disciplinary Authority.

25. Charge No. III(c) is that he availed the housing loan of Rs. 39,000 with a ulterior intention of defaulting in the repayment of the same. Since he knew his other financial commitments would not permit him to make repayment towards the housing loan. The Enquiry Officer found that this charge has not been proved. It is evident that this charge has been framed on the presumption that he would not be able to repay the money in view of his other commitments, but, it does not amount to proof of his intention to commit default in the payment of housing loan. Therefore, the Enquiry Officer rightly found that this charge has not been proved. But, the Disciplinary Authority without giving a finding that this charge is proved or not, merely stated that in view of his conclusion that the employee intended to defraud the bank, under Charge III(b), whether the employee is in a position to meet the repayment commitments is immaterial for arriving at a punishment to be inflicted. This conclusion of the Disciplinary Authority cannot be sustained. I find that this charge III(c) has not been proved by any acceptable evidence.

26. Charge III(d) is that the petitioner had not taken possession of the house purchased by him with the housing loan sanctioned to him but had diverted the same for other purposes and thereby misused the loan facility granted to him. Here again, the Enquiry Officer found that this charge has not been proved though, he had not taken possession of the house. Admittedly, the petitioner had not taken possession of the building, but, he stated that his Sister-in-law is living there and is paying rent to him. But the Disciplinary Authority found that the petitioner had not taken possession of the building, and although, the prosecution has not been able to prove with documentary evidence, circumstantial evidence strongly indicates that part of the loan disbursed has been used for purposes other than to which it is mentioned. It is not only a surmise and is not based upon any acceptable evidence. Therefore, I do not accept the finding of the Disciplinary Authority, that this charge has been proved. I find that this charge has also not been proved.

27. Charge No. IV is that the Petitioner informed the Personnel Officer of the Regional Office by his letter dated 5th December, 1981, that the final settlement with vendor will have to be completed before 15th December, 1981, representing that the agreement with the vendor would expire on that date and therefore requested for urgent sanction of the loan. The respondent contends that this representation is not true and that he has made a misrepresentation of facts and brought pressure on the concerned authorities for the expeditious sanction of the loan. The petitioner on the other hand contends that even though the original agreement did not contain a clause that the agreement should be completed by 15th December, 1981, by the subsequent agreement with the vendor he had agreed to pay the amount on that date, and therefore, he made such a representation. The Enquiry Officer found that the Employee had misrepresented and brought pressure on the authorities and therefore, found him guilty. The Disciplinary Authority found that though the agreement marked as Ex. M-11 was produced by the petitioner, that cannot be relied upon. He had dubbed this agreement as after thought. But, the petitioner has not examined the vendor to prove that she wanted the agreement to be completed by 15th December, 1981. Therefore, in the absence of such evidence, by merely producing that document the petitioner cannot contend that the vendor insisted that the agreement should be completed by 15th December 1981. Therefore, I find that this charge also has been proved.

28. So, from what I have discussed above, it is clear that the charges I(b), (c), II, III(b) and IV have been proved, and that the other charges have not been proved. But, as already pointed out, the Disciplinary Authority disagreed with the findings of the Enquiry Officer on charges I(a), III(a), (c) and (d) and held that those charges were also proved by his order dated 18th June, 1984. Ex. W-1 is the show cause notice issued by Disciplinary Authority to the petitioner on 28th May, 1984, informing him that the Enquiry Officer has held him guilty of the charges contained in I(a), III(a), (c) and (d), that he was enclosing a copy of the findings of the Enquiry Officer together with the copy of the Enquiry proceedings, that he has gone through the enquiry proceedings, the defence of the petitioner and the findings of the enquiry officer and observed that the charges proved against the petitioner are very serious warranting the imposition of penalty of dismissal without notice. I have

already pointed out that the order of the Disciplinary Authority agreeing with some of the findings and not agreeing with some other findings of the Enquiry Officer is dated 18th June, 1984 i.e. after the issue of the Show Cause Notice Ex. W-1. The Disciplinary Authority is not entitled to pass an order subsequent to the issuing of Second Show Cause Notice Ex. W-1 on 28th May, 1984 wherein he has clearly stated that the Enquiry Officer has found him guilty of some charges and not guilty of some others. Of course, he has not mentioned in Ex. W-1 specifically that he was accepting the findings of the Enquiry Officer. But, he has also not stated that he was differing with the findings of the Enquiry Officer and holding the petitioner guilty of all the charges. In a case, where the Enquiry Officer gives a finding, and the Disciplinary Authority disagrees with his finding, the Disciplinary Authority is not only bound to give his reasons for such disagreement, but is also bound to put the employee on notice of the same, so that the employee may have an opportunity to persuade the Disciplinary Authority to come to the conclusion that the findings of the Enquiry Officer are correct with regard to those charges with regard to which the employee was found not guilty. The learned counsel for the petitioner relied upon the decision in *S. S. Koshal, Ex-Officer, JM, SBI and Others Vs. SBI, Bhopal and others* (1993 111 J.P. 525) which supports the contention of the petitioner. Such an opportunity was denied to the petitioner. As pointed out already, the II Show Cause Notice was issued on 28th May, 1984 whereas the order disagreeing with the findings of the Enquiry Officer on certain charges has been made on 18th June, 1984 only. Therefore, when the II Show Cause Notice Exhibit W-1 was issued, the Disciplinary Authority could have made up his mind that all the charges have been proved. But yet, while issuing the final orders Ex. W-3 dated 21st June, 1984, he confirmed the order of dismissal proposed by him. This is a serious infirmity on the part of the Disciplinary Authority. Therefore, the finding of the Disciplinary Authority that the petitioner is guilty of the charges I(a), III(c) and (d) cannot be sustained and on that basis, the punishment cannot be imposed. The petitioner will have to be held guilty of only charges I(b), I(c), II, III(b) and IV. Therefore I find that the petitioner is guilty of charges I(b), (c), II, III (b) and IV only.

29. The next question is whether the punishment imposed upon the petitioner is just and proper and it is not disproportionate to the misconduct proved. Of course, the petitioner had not disclosed the entire amount for which he had suffered decrees, and had also not sought for the permission/approval of the bank for incurring those debts. It is evident that he had also borrowed amounts, which he could not repay, and had to suffer attachment of a portion of his salary. He had also failed to disclose that he owned a house while applying for a housing loan and had persuaded the officials to sanction the loan expeditiously. But, these misconducts on the part of the petitioner though, go to show that he had not maintained that much of absolute integrity as is expected of an employee of a bank, it cannot be stated that he had committed any misconduct like misappropriation of funds or falsification of accounts of the bank. In spite of the fact, that he has been involved in debts and has been receiving a meagre sum as salary, it is note-worthy that there is no charge against him that he did not commit any offence like misappropriation of funds. It is evident that the entire amount of debt could not have been incurred for his own purposes and that he had guaranteed the loan due from others. Therefore, in these circumstances, I am of opinion that the punishment of dismissal imposed upon him is not proportionate and has to be interfered with. This is especially so, when the Disciplinary Authority had proposed the punishment of dismissal on the charges held to be proved by the Enquiry Officer, but had later on disagreed with him and found the petitioner guilty of all the charges and confirmed his proposal of imposing the penalty of dismissal from service. In these circumstances, I find that instead of the punishment of dismissal, it will be fair and proper that the punishment of stoppage of 2 increments permanently with effect from 21-6-1984 (the date of the final order passed by the Disciplinary Authority) is imposed. It is reported that the age of retirement of petitioner is 60 and therefore he will be entitled to the order of reinstatement. But, I find that in view of the fact that the petitioner had not maintained absolute integrity, the petitioner should not be given back wages. There is nothing to show that the enquiry was not fair.

30. In the result, I find that the action of the respondent bank in dismissing Shri K. V. Narayanan Nair, Head Clerk,

Ottapalam Branch from service with effect from 10-9-1984 is not justified, and the same is set aside. Instead, the punishment of withholding of 2 increments of the petitioner permanently from 21-6-1984 is imposed. The petitioner is ordered to be reinstated into service, but he will not be entitled to back wages. An award is passed accordingly. No costs.

Dated, this the 11th day of May, 1994.

THIRU K. SAMPATT KUMARAN,
Industrial Tribunal.

WITNESSES EXAMINED

For both sides : None.

DOCUMENTS MARKED

For Workman :

rvadqia.—hL theli

Ex. W-1/28-5-84 : Notice issued by the Management-Bank calling the petitioner-workman for personal hearing.

W-2/12-6-84 : Submissions made by the petitioner workman on the date of personal hearing (copy).

W-3/21-6-84 : Dismissal order issued to Petitioner-workman.

For Management :

M-1/5-4-76 : Letter from Petitioner-workman to the Management-Bank regarding advances against the Provident Fund (Xerox copy).

M-2/13-4-76 : Application by the workman regarding advance against Provident Fund (Xerox copy).

M-3/3-9-80 : Letter from the Petitioner-workman to the Management regarding assets and liabilities (Xerox copy).

M-4/26-12-81 : —do—

M-5/14-10-81 : Letter from workman to the Management (Xerox copy).

M-6/14-10-81 : Loan application by the petitioner-workman (Xerox copy).

M-7/1-4-80 : Attachment orders passed against the workman (Xerox copy).

M-8/8-10-80 : —do—

M-9/11-11-80 : —do—

M-10/27-11-80 : —do—

M-11/18-8-81 : —do—

M-12/25-11-81 : —do—

M-13/15-12-81 : —do—

M-14/28-10-81 : —do—

M-15/14-1-82 : —do—

M-16/3-3-82 : Memo issued to the workman (Xerox copy).

M-17/12-3-82 : Reply by the Petitioner workman to Ex. M. 16 (Xerox copy).

M-18/29-10-82 : Charge sheet issued to the Petitioner-workman (Xerox copy).

M-19/26-11-82 : Explanation by the Petitioner-workman to Ex. M. 18 (Xerox copy).

M-20/25-8-83 : Salary certificate of the Petitioner-workman for the month of September, 1981 (Xerox copy).

M-21/25-8-83 : Salary certificate of the petitioner-workman for the month of December, 1981 (Xerox copy).

M-22/25-8-83 : Statement showing liabilities of Thiru K. V. Narayanan Nair, Clerk at the Branch as on 26-12-81 (Xerox copy).

M-23/25-8-83 : Particulars of gold loans availed by Smt. K. Lakshmikutty, wife of the petitioner-workman (Xerox copy).

M-24/25-8-83 : Certificate from Branch Manager, Ottapalam Branch, containing details of the attachment order received from various Courts attaching the salary of the petitioner-workman. (Xerox copy).

M-25/25-8-83 : Certificate from Branch Manager, Ottapalam Branch, regarding repayment programme of the Staff Housing loan availed by the Petitioner-workman (Xerox copy).

M-26/25-8-83 : Salary Certificate of the petitioner-workman for the month of October, 1982 (Xerox copy).

M-27 : Proceedings of the Enquiry Officer (copy).

M-28 : Findings of the Enquiry Officer and order of Disciplinary Authority (copy).

M-29/29-10-82 : Certificate from Tahsildar, Ottapalam (Xerox copy).

M-30 : Encumbrance Certificate issued by Sub-Registrar, Kadambazhpuram (Xerox copy).

M-31/30-12-82 : Letter from the Executive Officer, Ambalavana, Panchayat, Ambalapara to the Management (Xerox copy).

Sd. /-

Industrial Tribunal

नई दिल्ली, 4 जनवरी 1995

का.आ. 202.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रेलवे मेल सर्विस (एन. आर.), जलंधर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-95 को प्राप्त हुआ था।

[सं. एल-40012/125/90-आई आर (डी.यू.)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 4th January, 1995

S.O. 202.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure in the industrial dispute between the employers in relation to the management of Railway Mail Service (NR), Jalandhar and their workmen, which was received by the Central Government on 3-1-1995.

[No. L-40012/125/90-IR (DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI M. S. SULLAR, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

Case No. I. D. 10 of 1991

Sukhdev Singh

Vs.

Railway Mail Service.

For the workman—Shri Hardayal Singh.

For the management—Shri M. K. Sharma.

Dated, the 9th November, 1994

AWARD

In the wake of industrial dispute raised by the workman U/S 10(1)(d) of the Industrial Disputes Act 1947 (hereinafter to be referred as the Act) Central Government vide letter No. 40012/125/90 IR (DU) dated 24th January, 1991 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Sr. Supdt. RMS I. Jalandhar Division, Jalandhar in terminating the services of Shri Sukhdev Singh, Mailman w.e.f. 8-8-88 is justified? If not, what relief the concerned workman is entitled and from what date?"

2. The brief facts relevant for the disposal of the present reference, are that Sukhdev Singh, petitioner, was appointed as Mail man. His services were terminated by the management. He has challenged his termination order by way of this reference petition. The Case set up by the petitioner, in brief, in so far as relevant, is that he was appointed as Mail man on 16-6-1987 and continued working on the said post up to 8-8-1988, when his services were terminated. Without payment of any retrenchment compensation. According to the petitioner he had completed 240 days of service but the management has not complied with the Section 25-B, 25-G and 25-H of the Act and new recruitment have been made and even juniors to the petitioner were working at the time of retrenchment of the petitioner. In all it has been alleged that the termination of the petitioner is illegal, arbitrary and against the principle of natural justice and provisions of the Act. On the footing of aforesaid ground the workman claimed his reinstatement with full back wages and continuity of service.

3. The management contested the claim of the workman and filed the written statement, inter alia, pleading that the petitioner was engaged as daily wage Mail man, on 16-6-1987, to meet the shortage of staff. He was 37 years of age at that time. He was found average. The sub-record officer, Batala, was directed to replace the petitioner with immediate effect vide letter dated 30-3-1988. According to the management, the petitioner was again engaged as daily wage Mail man through employment exchange vide letter dated 9-5-1988 although he was overage. He was again replaced w.e.f. 6-8-1988. The case set up by the management is that the petitioner was never appointed against any regular post. He was engaged as daily paid substitute, therefore, violation of any provisions of the Act did not arise. It will not be out of place to mention here that the management has stoutly denied the other allegations of the management. That being so, the management prayed for the dismissal of the deference petition.

4. Controverting the allegations of the management and reasserting the pleadings contained in the statement of claim, the workman filed the replication.

5. The workman, in order to substantiate his claim appeared as his own witness as WW-1 who has tendered into evidence his affidavit Ex. W-1. The management in order to rebut the evidence brought on record by the workman, examined M. R. Sharma Supdt., RMS, Jalandhar as MW1 who has tendered into evidence his affidavit Ex. M-1 and also the matriculation certificate of the petitioner Ex. M-2, extract of P&T manual Vol. IV, Ex. M-3, office memorandum dated 7-5-1985, Ex. M-4, letter from RMS Jalandhar Ex. M-5 and letter dated 9th May 1988 from Sub record Officer Batala Ex. M-6.

6. Having heard the representatives of the parties, having gone through the evidence on record and after considering the entire matter deeply, to my mind, the reference petition deserves acceptance.

7. As indicated earlier, the case set up by the workman is that he was appointed as Mail man on 16-6-1987 and continuously worked on the said post post up to 8-8-1988. He has also so stated in his affidavit Ex. W-1 and testified

while appearing as WW-1. On the other hand, even the management has admitted that the workman was engaged as daily wage mailman on 16-6-1987 and was disengaged on 30-3-1988 on the ground of overage. It is also admitted by the management in its reply that Sukhdev Singh, petitioner, was engaged on daily wage as Mailman through employment exchange vide letter dated 9-5-1988 and the age factor was again not considered. Shri M. R. Sharma Superintendent, RMS, has proved his affidavit Ex. M-1 while appearing as MW-1. MW-1 has categorically admitted in his cross examination that the petitioner was engaged on 16-6-1987 and continuously worked up to 30-3-1988. He has also admitted that workman was again engaged on 9-5-1988 through employment exchange and worked up to 6-8-1988. Thus it would be seen that the bare perusal of evidence on record would go to show that workman has continuously worked from 16-6-1987 to 30-3-1988 and from 9-5-1988 to 6-8-1988 i.e. 301 days in a year as Mailman. The representative appearing on behalf of the management has contended with some amount of vehemence that the workman was not retrenched but his services were disengaged as he was found overage. He has also attracted the attention of the Court towards the copy of his Matriculation certificate Ex. M-2 where the date of birth of the petitioner has been shown as 12-6-1950. I have considered the argument which, to my mind, is not only devoid of merit but misplaced as well. Section 2(oo) of the Act defines the retrenchment to means the termination by employer of the services of a workman for any reason whatsoever. It is now well settled that the termination of services of a workman by the management for any reason, whatsoever, is squarely covered by the definition of retrenchment as contemplated U/S 2(oo) of the Act, unless excluded by exclusion clauses. The case put forth by the management that his services were terminated on the ground of overage do not find anything in the exclusion clause of Section 2(co) of the Act. Reliance in this regard can be placed to a judgment D. K. Yadav Vs. I.M.A. Industries Ltd. 1993 (4) S.L.R. 126.

Furthermore it is admitted case of the management that even the petitioner was re-employed through employment exchange on 9-5-1988, so re-employment of the petitioner by the management through employment exchange itself contradicts the stand of the management. In this view of the matter, the management is estopped from taking the stand that he was not a retrenched and the services of the workman were disengaged on the ground of his overage. Subsequent re-employment of the workman by the management is the complete answer to its stand.

The other argument of the management that the workman has not completed 240 days of his continuous service, is again devoid of merit because taking the risk of repetition and as indicated earlier he has worked from 16-6-1987 to 8-8-1988. Section 25-B of the Act postulates that a workman shall be said to be in continuous service if he has worked 240 days during the period of 12 calendar months preceding the date with reference to the date of termination. Thus, it would be seen that the workman had continuously worked for 240 days in a year as contemplated U/S 25-B of the Act.

Section 25-F of the Act provides that no workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until :

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice ;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 1 (for every completed year of continuous service) or any part thereof in excess of six months ; and
- (c) notice in the prescribed manner is served on the appropriate Government ? (or such authority as may be specified by the appropriate Govern-

Admittedly, neither any notice has been given to the workman nor any compensation has been paid to him. Even Mr. M. R. Sharma while appearing as M.W-1 has categorically admitted that the petitioner was neither paid any retrenchment compensation nor any notice was given to him. He has also admitted that the work of a Mails man is of permanent nature. Thus it would be seen that there clear violation of Section 25-F of the Act at the time of retrenchment of the workman. It is now well settled that if there is violation of the mandatory provisions of Section 25-F and retrenchment, without following the requirement prescribed therein, renders the retrenchment invalid. The representative of the workman has rightly placed reliance on a judgement Ravinder Kumar Srivastava and others Vs. Union of India and others 1982 Lab. I.C. page 1739, and Kailash Paswan and others Vs. Union of India and others 1985 Lab. I.C. page 433. These judgments are the complete answer to the problem in hand.

Thus taking the case from any angle, it stands proved on the record as indicated earlier that the retrenchment of the petitioner is invalid and he shall be deemed to be in continuous service.

Now, adverting to the question of payment of back wages, it may be added here that the petitioner was engaged as daily wages mailsman. He has not actually worked on the post from 6-8-1988 till today. He has nowhere stated in his affidavit that he was totally out of job during the intervening period. So taking into consideration of the facts and circumstances of the case and keeping in view that the petitioner had not actually worked, so to my mind, end of justice would be squarely met if 50 per cent of back wages are allowed. The Hon'ble Supreme Court in D. K. Yadav Vs. JMA Industries Ltd. (Supra). He has allowed 50 per cent of the back wages to the workman.

In the light of aforesaid reasons, retrenchment of the petitioner is hereby, set aside. Consequently, the petitioner is directed to be reinstated with one month from the publication of the award with 50 per cent back wages with continuity of service. However, there would be no orders as to cost in the peculiar circumstances of the case. Appropriate Government be informed accordingly.

Chandigarh,

Dated : 9-11-1994.

M. S. SULLAR, Presiding Officer

नई दिल्ली, 5 जनवरी, 1995

का. धा. 203.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एन. के. राम एंड को. बारबिल के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, उडुप्पा-भुवनेश्वर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-95 को प्राप्त हुआ था।

[संख्या एल-26011/12/89-आई प्रार (विविध)]

पी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 5th January, 1995

S.O. 203.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Orissa, Bhubaneswar, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. K. N. Ram and Co. Barbil and their workmen, which was received by the Central Government on 5-1-1995.

[No. L-26011/12/89-IR(Misc.)]
B. M. DAVID, Desk Officer.

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR PRESENT :

Sri P. K. Tripathy, M.A.L.L.B.,
Presiding Officer, Industrial Tribunal,
Orissa, Bhubaneswar.

Industrial Dispute Case No. 31 of 1989 (Central)
Bhubaneswar, the 20th December, 1994

BETWEEN

The managements of—

- (1) Sri Basu Behera, Contractor at Roida I and II Iron Mines of M/s. K. N. Ram and Co., Barbil, and
- (2) M/s. K. N. Ram and Co., Barbil — First party-managements.

AND

Their workmen represented through Keonjhar Mining Workers' Union, At/P.O. Barbil, Dist. Keonjhar.

.. Second party-workmen.

APPEARANCES :

Sri Basu Behera, Contractor—for the first party No. 1
Sri Mangalji Aitha, Managing Partner—for the first party No. 2

Sri I. Behera, General Secretary of the Union—for the second party-workmen.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred upon them by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following disputes for adjudication by this Tribunal vide their Order No. L-26011/12/89-IR (Misc.) dated 7th December, 1989 :—

- (1) "Whether it is a fact that the management of Sri Basu Behera, Contractor of Roida I and II Mines of M/s. K. N. Ram and Co. has obtained resignation of the following workmen forcibly? If so, to what relief the workmen concerned are entitled?

- (1) Sri Pradhan Munda,
- (2) Radhi Munda,
- (3) Galni Munda,
- (4) Dhaklia Munda,
- (5) Soma Munda,
- (6) Tanish Kerketta,
- (7) Pudia Munda,
- (8) Anthony, Kerketta,
- (9) Rautu Munda,
- (10) Rajesh Munda, and
- (11) Suresh Munda.

- (2) "Whether the action of the management of Sri Basu Behera, Contractor, Roida I and II Mines of M/s. K. N. Ram and Co. Ltd., Barbil in terminating the services of Sri Shyam Munda w.e.f. 4-1-89 and refusing employment to Sri Arjun Munda w.e.f. 4-1-89 is lawful and justified? If not, to what relief the workmen are entitled?"

2. This case was posted to be heard at Keonjhar circuit. On 6-12-94 the representatives of all the parties by filing a memorandum of settlement prayed to pass on Award in terms thereof. They also stated to have settled the dispute out of court in the interest of industrial peace and harmony. The terms of the settlement were read-over and explained to the parties to which they admitted to be true and correct. The terms embodied in the settlement being fair are recor-

ded. An award is accordingly passed in terms of the settlement which do form part of the Award.
Dictated and corrected by me.

P. K. TRIPATHY, Presiding Officer

BEFORE THE PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL ORISSA, CIRCUIT AT, KEONJHAR

I. D. Case No. 31 of 1989 (C)

BETWEEN

M/s. Basu Behera and another .. 1st Parties

AND

Their workmen .. 2nd Parties

The humble petition of the parties in the above case.

1. That, the parties have settle all their disputes amicably as per the following terms:—

TERMS OF SETTLEMENT

1. The management No. 1 (contractor) agrees to pay an amount of Rs. 300 to each of the concerned workman in this reference and that amount shall be distributed by the management No. 2 (Principal employer) within a period of three months from the date of publication of the Award. In that connection, the management No. 2 is to disburse the amount and to adjust its account accordingly with the management No. 1.
2. The past entitlements of the concerned workmen shall also be finalised and disbursed by the management No. 2 in the aforesaid manner and within the same stipulated time and the accounts, if any be finalised between the managements interse.
3. On a compessionate ground the management No. 2 agrees to provide employment directly to retrenched workers and others through contractors in their equivalent cadre (according to the past service). In that connection, only the willing workmen who shall report to duty and show his readiness to work within a period of three months from the date of publication of the Award would be considered. Those workmen who shall not show their readiness will be treated to have abandoned the offer of reemployment. For reporting to the duty and accepting the fresh appointment, the workman is to report either through the union representative or through the L.E.O. (Central), Barbil.
4. Each terms of the settlement if not specifically provided shall be implemented within three months from the date of publication of the Award.

This terms of settlement shall form part of the Award.

PRAYER

It is therefore prayed that the terms of the settlement may be recorded and an Award may be passed accordingly and for this act of kindness the parties shall ever pray as in duty bound.

Keonjhar

Dated : 6-12-1994

Sd/-

By the 1st party No. 1

Sd/-

By the 1st party No. 2

Sd/-

Union representative

VERIFICATION

I, Sri Basu Behera contractor, 1st party No. 1 in the above case do hereby verify after going through the contents which

I believe to be true and correct and I sign this verification on this 6th day of December, 1994 being present at Keonjhar.

Keonjhar

Dated : 6-12-1994

Verificant.
Basu Behera

VERIFICATION

I, Sri Mangalji Atha one of the partners of M/s. K N. Ram and company, 1st party No. 2 in the above case do hereby verify after going through the contents which I believe to be true and correct and I sign this verification on this 6th day of December 1994 being present at Keonjhar.

Keonjhar,

Dated : 6-12-1994

Verificant
Mangalji Atha

VERIFICATION

I, Sri Indramani Behera the General Secretary of Keonjhar Mining workers Union (CITU), Barbil representing the workmen 2nd party in the above case do hereby verify after going through the contents which I believe to be true and correct and I sign this verification on this 6th day of December 1994 being present at Keonjhar.

Keonjhar,

Dated : 6-12-1994

Verificant
Indramani Behera

नई दिल्ली, 5 जनवरी, 1995

का.प्र. 204.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में केन्द्र सरकार बिहार भानजिपाली माइन्स प्रां. (आई ओ एं ओ यू) सिमेंट लि. के प्रबंधन के संरक्षित नियंत्रकों और उनके कर्मचारियों के बीच, अनुबंध में निविदा औद्योगिक विवाद में औद्योगिक अधिनियम, उद्योग, भुवनेश्वर के पंचयत को प्रकटित करती है, जो केन्द्रीय सरकार को 5-1-95 को प्राप्त हुआ था।

[संख्या एल-29012/40/93-आई आर (विविध)]

बि. एम. डेविड, डेस्क अधिकारी

New Delhi, the 5th January, 1995

S.O. 204.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Orissa, Bhubaneswar as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Behera Bhanjipali Mines of IOCOU Cement Ltd. and their workmen, which was received by the Central Government on 5-1-95.

[No. L-29012/40/93-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

INDUSTRIAL TRIBUNAL : ORISSA : BHUBANESWAR

PRESENT :

Sri P. K. Tripathy, M.A., LL.B.,

Presiding Officer Industrial Tribunal, Orissa, Bhubaneswar,
INDUSTRIAL DISPUTE CASE No. 11 of 1994 (CENTRAL)

BETWEEN :

The management of Behera Bhanjipali Mines of IDCOL Cement Ltd.

Dated, Bhubaneswar, the 20th December, 1994

At : Cement Nagar, P.O. Bardol, Dist : Bargarh.

.. First party-management.

AND

Their workman Sri Pabitra Ku. Mishra,

At, P.O. Bhanjipali, Via : Dungri, .. Second party-

Distt. Bargarh .. workman.

APPEARANCES :

Sri R. C. Mohanty, Sr. Dy. —for the first

Manager (Personnel). party-management.

Sri P. K. Mishra — The workman himself.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following dispute for adjudication by this Tribunal vide their order No. L-29012/40/93-IR(Misc.) dated 3-2-94 :—

'Whether the action of the management of Behera Bhanjipali Mines of IDCOL Cement Ltd., P. O. Bargarh terminating the services of Shri Pabitra Kumar Mishra from 15-12-91 was justified? If not, what relief the workman is entitled to?'

2. This case was posted to 12th December, 1994 for settlement of issues. On that date both the parties by filing a memorandum of settlement prayed to pass an award in terms thereof. The terms of the settlement were read over and explained to the parties to which they admitted to be true and correct. The terms embodied in the settlement being fair and recorded. An award is passed accordingly in terms of the settlement which do form part of the Award.

Dictated and corrected by me.

P. K. TRIPATHY, Presiding Officer

FORM OF SETTLEMENT BETWEEN THE MANAGEMENT OF BEHERA-BANJIPALI MINES OF IDCOL CEMENT LIMITED AND THE WORKMAN SHRI PABITRA KUMAR MISHRA
I.D. Case No. 11/94(C)

PARTIES PRESENT:

1. Representing Employer—Shri R. C. Mohanty, Sr. Dy. Manager (Personnel), IDCOL Cement Ltd., Cementnagar, Bardol, District Bargarh and the Authorised Representative in I.D. Case No. 11/94(C)
2. Representing the workman—Shri Pabitra Kumar Mishra S/o Shri Gajraj Mishra, Village Banjipali, PO Banjipali, Via : Dungri Limestone Quarry Colony Campus, PS : Ambabehona, District Bargarh.

SHORT RECITAL OF THE FACT

Shri Pabitra Kumar Mishra was engaged as an Apprentice by the IDC of Orissa Limited in the Behera Bhanjipali Mines which is a seasonal establishment, on a consolidated monthly allowance on 89 days basis and his engagement stood terminated on expiry of the period. Shri Mishra raised an industrial dispute in the matter and eventually, the Central Government in the Ministry of Labour/Shrama Mantralaya, New Delhi by their letter dated 24th September, 1993, made a reference of the industrial dispute to the Learned Industrial Tribunal, Orissa, Bhubaneswar for adjudication. The same has been registered as I.D. Case No. 11/94(C) before the Industrial Tribunal, Orissa, Bhubaneswar. Both the management of Behera Bhanjipali Mines, IDCOL Cement Limited and the 2nd Party workman filed their respective written statements in the case. In the meantime, as Mr. P. K. Mishra shown his inclination for an out of Court settlement, both the

parties after several courses of discussions agreed to mutually settle the disputes and differences between them without entering into disputed stands taken by them in the aforesaid I.D. Case pending before the Learned Industrial Tribunal and many stated their disputes and differences involved in the I.D. Case No. 11/94(C) amicably in the following terms:

TERMS OF SETTLEMENT

1. That, it has been agreed by and between the parties that Shri Pabitra Kumar Mishra, the 2nd Party work in I.D. Case No. 11/94(C) shall be taken in employment at the Behera-Bhanjipali Mines as a Mazdoor on probation for a period of one year on a consolidated monthly wages of Rs. 1500 (Rupees one thousand and five hundred) only and he shall make no further claims, whatsoever, subsisting in the matter of the said I.D. case.
2. That, it is further agreed that the parties shall not have any further grievance/claim subsisting between them against the other and Shri Mishra shall have no subsisting claims, disputes, or differences against the First Party arising out of his previous engagement as an Apprentice and he will not make any grievance/claim for any past benefit in any form/manner and after signing of this settlement both the parties will have no claim whatsoever against the other and the claim/counter claim involved in I.D. Case No. 11/94(C) would stand resolved and neither party will revert back to the said case.
3. It is further agreed that both the parties will file a joint petition before the Hon'ble Industrial Tribunal on the next date with a prayer to answer the reference by passing an award in terms of the settlement which will be filed before the said Tribunal as required under Law.
4. That, it is further agreed that within a week from the date of filing and acceptance of this settlement by the Hon'ble Tribunal, Shri Mishra will report to duty and he will be allowed to duty in the said Mines.
5. That this settlement, has been signed by the Parties with their free will and volition without any coercion or pressure and after fully understanding the contents and purports thereof on the eighth day of December, 1994.

Witnesses:

1. Sujyakanta Das
2. Lenin Keshoor Duan.

RAMESH CHANDRA MOHANTY
for the Management
Pabitra Kumar Mishra
Workman

नई दिल्ली, 5 जनवरी, 1995

का.प्र. 205.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में के.एन. राम एंड को, बाखिरा के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, प्रत्यक्ष में निर्दिष्ट औद्योगिक विवाद में औद्योगिक प्रवर्तन, सुधार, उद्दिष्ट के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-95 को प्राप्त हुआ था।

[संख्या एस-26011/9/39-आई आर. (विविध)]
बी०एन० डेविड, डी०ए० अधिकारी

New Delhi, the 5th January, 1995

S.O. 205.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar, Orissa as shown in the Annexure, in the industrial dis-

pute between the employers in relation to the management of M/s. K. N. Ram & Co. Barbil and their workman, which was received by the Central Government on the 5th January, 1995.

[No. L-26011/9/89-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR

PRESENT:

Sri P. K. Tripathy, M.A. LL.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

Industrial Dispute Case No. 28 of 1989 (Central)

Dated, Bhubaneswar, the 20th December, 1994

BETWEEN

The Management of—

(1) Sri Guru Charan Barik, Contractor at Roida I & II Mines of M/s. K. N. Ram & Co., Barbil.

(2) M/s. K. N. Ram & Co., Barbil.
...First party-managements.

AND

Their workmen represented through Keonjhar Mining Workers Union, A/P.O. Barbil, District Keonjhar.

...Second party-workmen.

APPEARANCES:

Sri Gurucharan Barik, Contractor—For the first party No. 1.

Sri Mangalji Atha, Managing Partner—For the first party No. 2.

Sri I. Behera, General Secretary of the Union—For the second party-workmen.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following disputes for adjudication by this Tribunal vide their Order No. L-26011/9/89 IR(Misc.) dated 29th November, 1989:

(1) Whether it is a fact that the management of Sri Gurucharan Barik, Contractor of Roida I & II Mines of M/s. K. N. Ram & Co., Barbil has obtained resignations of the following workmen forcibly? If so to what relief the workmen concerned are entitled?

- (1) Sri Jaga Munda,
- (2) Siril Munda,
- (3) Suklal Munda,
- (4) Bikram Munda,
- (5) Indra Munda,
- (6) Jagat Munda,
- (7) Budhuni Munda; and
- (8) Ramchandra Munda.

(2) Whether the action of the management of Sri Guru Charan Barik, Contractor, Roida I & II Mines of M/s. K. N. Ram & Co. in terminating the services of Sri Chandra Munda, Sri Baburam Lohar, Laba Sidu, Sri Budhram Munda and Sri Sidlo Munda w.e.f. 4th January, 1989 is lawful and justified? If not, to what relief are the workmen entitled?"

2. This case was posted to be heard at Keonjhar circuit. On 6th December, 1994 the representatives of all the parties by filing a memorandum of settlement prayed to pass an Award in terms thereof. They also stated to have settled the dispute out of court in the interest of industrial peace and harmony. The terms of the settlement were read-over and explained to the parties to which they admitted to be true and correct. The terms embodied in the settlement being fair

are recorded. An Award is accordingly passed in terms of the settlement which do form part of the Award.

Dictated and corrected by me.

P. K. TRIPATHY, Presiding Officer

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, ORISSA, CIRCUIT AT KEONJHAR
I.D. Case No. 28 of 1989(C)

BETWEEN

M/s. Guru Charan Barick & another ...1st Parties

AND

Their workmen. ...2nd Parties.

The humble petition of the parties in the above case.

1. That, the parties have settled all their disputes amicably as per the following terms:—

TERMS OF SETTLEMENT

1. The management No. 1 (Contractor) agrees to pay an amount of Rs. 300 to each of the concerned workman in this reference and that amount shall be distributed by the management No. 2 (Principal employer) within a period of three months from the date of publication of the Award. In that connection, the management No. 2 is to disburse the amount and to adjust its account accordingly with the management No. 1.

2. The past entitlements of the concerned workmen shall also be finalised and disbursed by the management No. 2 in the aforesaid manner and within the same stipulated time and the accounts, if any be finalised between the managements inter-se.

3. On a compassionate ground the management No. 2 agrees to provide employment directly to retrenched workers and others through contractors in their equivalent cadre (according to the past service). In that connection, only the willing workmen who shall report to duty and show his readiness to work within a period of three months from the date of publication of the Award would be considered. Those workmen who shall not show their readiness will be treated to have abandoned the offer of re-employment. For reporting to the duty and accepting the fresh appointment, the workman is to report either through the union representative or through the L.E.O. (Central), Barbil.

4. Each term of the settlement if not specifically provided shall be implemented within three months from the date of publication of the Award. This terms of settlement shall form part of the Award.

PRAYER

It is therefore prayed that the terms of the settlement may be recorded and an Award may be passed accordingly and for this act of kindness the parties shall ever pray as in duty bound.

Sd/-

Guru Charan Barick

By the 1st party No. 1

Sd/-

By the 1st party No. 2

Sd/-

Union representative

Keonjhar,

Dated: 6-12-1994.

VERIFICATION

I, Guru Charan Barick contractor, 1st party No. 1, in the above case do hereby verify after going through the contents which I believe to be true and correct and I sign

this verification on this 6th day of December, 1994 being present at Keonjhar.

Sd/-

Guru Charan Barick

6-12-1994

Verificant

Keonjhar,

Dated: 6-12-1994.

VERIFICATION

I, Mangalji Atha one of the partners of M/s. K. N. Ram and Company, 1st party No. 2 in the above case do hereby verify after going through the contents which I believe to be true and correct and I sign this verification on this 6th day of December, 1994 being present at Keonjhar.

Verificant

Sd/-

Keonjhar,

Dated: 6-12-1994.

VERIFICATION

I, Sri Indramani Prehera the General Secretary of Keonjhar Mining Workers Union (CIU), Barbil representing the workmen 2nd party in the above case do hereby verify after going through the contents which I believe to be true and correct and I sign this verification on this 6th day of December, 1994 being present at Keonjhar.

Sd/-

Verificant

Keonjhar,

Dated: 6-12-1994.

नई दिल्ली, 5 जनवरी, 1995

का.मा. 206.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार म/स-के. एन. राम एण्ड को. बारबिल के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण, भुवनेश्वर-उड़ीसा के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-95 को प्राप्त हुआ था।

[संख्या एल-26011/10/89-आई आर (विविध)]

बी०एम० डेविड, डेस्क अधिकारी

New Delhi, the 5th January, 1995

S.O. 206.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Bhubaneswar, Orissa as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. K. N. Ram & Co. Barbil and their workmen, which was received by the Central Government on the 5-1-95.

[No. L-26011/10/89-IR(Misc.)]
B. M. DAVID, Desk Officer

ANNEXURE

INDUSTRIAL DISPUTE CASE NO. 39 OF 1989

Present :

Sri P. K. Tripathy, M.A.L.L.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 29 OF 1989

(CENTRAL)

Dated, Bhubaneswar, the 29th December, 1994

BETWEEN

The managements of—

- (1) Sri Ambika Nagina Prasad, Contractor Roida I & II Iron Mines of M/s. K. N. Ram & Co., Barbil.
- (2) M/s. K. N. Ram & Co., Barbil. .. First party-managements.

AND

Their workmen represented through Keonjhar Mining

Workers' Union, At/P.O. Barbil, Distt. : Keonjhar.

IInd party workmen.

Appearances :

Sri Ambika Nagina Prasad—For the first party No. 1 Contractor.

Sri Mangalji Atha, Managing Partner—For the first party No. 2.

Sri I. Behera, General Secy., of the Union.—For the second party-workman.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred upon them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following disputes for adjudication by this Tribunal vide their Order No. L-26011/10,89-IR(Misc.) dated 7th December, 1989 :—

- (1) Whether it is a fact that the management of Sri Ambika Nagina Prasad, Contractor of Roida I & II Mines of M/s. K. N. Ram & Co., Barbil has obtained resignations of the following workmen forcibly? If so, to what relief the workman concerned are entitled?

- (1) Sri Suban Munda, (2) Himish Korketta, (3) Rafel Munda, (4) Patrish Korketta, (5) Jambira Munda, (6) Nilakar Das and (7) Pragana Munda.

- (2) "Whether the action of the management of Sri Ambika Nagina Prasad, Contractor, Roida I & II Mines of M/s. K. N. Ram & Co., Barbil in terminating the services of Sri Mangal Munda, Sri Indra Munda & Sri Sarada Laguri w.e.f. 4-1-89 is lawful and justified? If not, to what relief the workmen are entitled?"

2. This case was posted to be heard at Keonjhar circuit. On 6-12-94 the representative of all the parties filing a memorandum of settlement prayed to pass an Award in terms thereof. They also stated to have settled the dispute out of court in the interest of industrial peace and harmony. The terms of the settlement were read over and explained to the parties to which they admitted to be true and correct. The terms embodied in the settlement being fair are recorded. An Award is accordingly passed in terms of the settlement which do form part of the Award.

Dictated & corrected by me.

P. K. TRIPATHY, Presiding Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL ORISSA, CIRCUIT AT : KEONJHAR

I. D. CASE NO. 29 OF 1989 (C)

BETWEEN

M/s. Ambika Nagina Prasad and another .. 1st parties

AND

Their workmen.

.. 2nd parties

The humble petition of the parties in the above case.

1. That, the parties have settle all their disputes amicably as per the following terms,—

TERMS OF SETTLEMENT

1. The management No. 1 (contractor) agrees to pay an amount of Rs. 300/- to each of the concerned workman in this reference and that amount shall be distributed by the management No. 2 (Principal) employer within a period of three months from the date of publication of the Award. In that connection, the management No. 2. is to disburse the amount to adjust its account accordingly with the management No. 1.
2. The past entitlements of the concerned workman shall also be finalised and disbursed by the management No. 2 in the aforesaid manner and within the same stipulated time and the accounts, if any be finalised between the management inter-se.
3. On a compassionate ground the management no. 2 agrees to provide employment directly to retrenched workers and others through contractors in the equivalent cadre (according to the part service). In that connection, only the willing workmen who shall report to duty and show his readiness to work within a period of three months from the date of publication of the Award would be considered. Those workmen who shall not show their readiness will be treated to have abandoned the offer of re-employment. For reporting to the duty and accepting the fresh appointment, the workman is to report either through the union representative or through the L.E.O. (Central), Barbil.
4. Each term of the settlement if not specifically provided shall be implemented within three months from the date of publication of the Award.

This terms of settlement shall form part of the Award.

PRAYER

It is therefore prayed that the terms of the settlement may be recorded and an Award may be passed accordingly and for this act of kindness the parties shall ever pray as in duty bound

By the 1st party No. 1
By the 1st party No. 2
Union representative

Keonjhar

Dt. : 6-12-94

VERIFICATION

I, Ambika Nagina Prasad, contractor, 1st party No. 1 in the above case do hereby verify after going through the contents which I believe to be true and correct and I sign this verification on this 6th day of December, 1994 being present at Keonjhar.

Verificant.

Keonjhar

Dt. 6-12-94

VERIFICATION

I, Mangalji Atha one of the partners of M/s. K. N. Ram and company, 1st party no. 2 in the above case do hereby verify after going through the contents which I believe to be true and correct and I signed this verification on this 6th day of December, 1994 being present at Keonjhar.

Verificant

Keonjhar

6-12-91

VERIFICATION

I, Sri Indramani Behera the General Secretary of Keonjhar Mining Workers Union (CITU), Barbil representing the workmen 2nd party in the above case do hereby verify after going through the contents which I believe to be true and correct and I sign this verification on this 6th day of December 1994 being present at Keonjhar.

Verificant.

Keonjhar

Dt. 6-12-94

नई दिल्ली, 5 जनवरी 1995

का.का. 207.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार म/स के एन राम एंड को-बारबिल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, उडिसा-भुवनेश्वर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-95 को प्राप्त हुआ था।

[संख्या एल-26011/11/89-प्र.ई.नार (विधि)]

बीएम डेविड, डेस्क अधिकारी

New Delhi, the 5th January, 1995

S.O. 207.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Orissa, Bhubaneswar as shown in the Annexure. In the industrial dispute between the employers in relation to the management of M/s. K. N. Ram and Co. Barbil and their workmen, which was received by the Central Government on 5-1-1995.

[No. L-26011/11/89-IR (Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

INDUSTRIAL TRIBUNAL, CRISSA, BHUBANESWAR
PRESENT :

Sri P. K. Tripathy, M.A.L.L.B.,
Presiding Officer Industrial Tribunal,
Orissa, Bhubaneswar.

Industrial Dispute Case No 30 of 1989 (Central)
Bhubaneswar, the 20th December, 1994

BETWEEN

The management's of—

- (1) Sri Bipin Behari Lal, Contractor at Roida I and II Iron Mines of M/s. K. N. Ram and Co., Barbil.
- (2) M/s. K. N. Ram and Co., Barbil. ... First party-management.

AND

Their workmen represented through Keonjhar Mining Workers' Union, At/P.O. Barbil, Dist. Keonjhar.
Second party-workmen.

APPEARANCES :

Sri Bipin Behari Lal, Contractor—for the First party No. 1.

Sri Mangalji Atha, Managing Partner—for the First party No. 2.

Sri I. Behera, General Secretary of the Union—for the second party-workmen.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred upon them by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following disputes for adjudication by this Tribunal vide their Order No. L-26011/11/89-JR (Misc.) dated 7-12-89 :—

1. "Whether the action of the management of Sri Bipin Behari Lal, Contractor, Roida I and II Mines of M/s. K. N. Ram and Co. Barbil in terminating the services of the following workmen w.e.f. 4-1-89 is lawful and justified? If not, to what relief the workmen are entitled?"

- (1) Sri Suka Munda,
- (2) Bacho Munda,
- (3) Kurpa Munda,
- (4) Nilamber Gope,
- (5) Chamru Munda,
- (6) Suklal Kerketa,
- (7) Tanish Kerketta,
- (8) Jena Munda,
- (9) Sanjee Mukherjee,
- (10) Chandra Munda,
- (11) Bipin Purty,
- (12) Chamaru Munda,
- (13) Pandu Munda,
- (14) Rautu Munda,
- (15) Budhu Munda.

2. Whether it is a fact that the management of Sri Bipin Behari Lal, Contractor of Roida I and II Mines of M/s. K. N. Ram and Co. has obtained resignations of the following workmen forcibly? If so, to what relief the workmen concerned are entitled?

- (1) Gopal Munda,
- (2) Manni Munda,
- (3) Chulpa Munda,
- (4) Raya Munda,
- (5) Sunia Munda,
- (6) Ramchandra Munda,
- (7) Bishno Munda,
- (8) Suresh Mundar, and
- (9) Soma Munda.

2. This case was posted to be heard at Keonjhar circuit. On 6-12-94 the representatives of all the parties by filing a memorandum of settlement prayed to pass an Award in terms thereof. They also stated to have settled the dispute out of court in the interest of industrial peace and harmony. The terms of the settlement were read over and explained to the parties to which they admitted to be true and correct. The terms embodied in the settlement being fair are recorded. An award is accordingly passed in terms of the settlement which do form part of the Award.

Dictated and corrected by me.

P. K. TRIPATHY, Presiding Officer

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, ORISSA, CIRCUIT AT, KEONJHAR

I. D. Case No. 30 of 1989 (C)

BETWEEN

M/s. B. B. Lal and another .. 1st Parties.

AND

Their workmen .. 2nd Parties.

The humble petition of the parties in the above case.

1. That, the parties have settled all their disputes amicably as per the following terms:

TERMS OF SETTLEMENT

1. The management No. 1 (contractor) agrees to pay an amount of Rs. 300 to each of the concerned workman in this reference and that amount shall

be distributed by the management No. 2 (Principal employer) within a period of three months from the date of publication of the Award. In that connection, the management No. 2 is to disburse the amount and to adjust its account accordingly with the management No. 1.

2. The Past entitlements of the concerned workmen shall also be finalised and disbursed by the management No. 2 in the aforesaid manner and within the same stipulated time and the accounts, if any be finalised between the managements inter-se.
3. On a compassionate ground the management No. 2 agrees to provide employment directly to retrenched workers and others through contractors in their equivalent cadre (according to the past service). In that connection only the willing workmen who shall report to duty and show his readiness to work within a period of three months from the date of publication of the Award would be considered. Those workmen who shall not show their readiness will be treated to have abandoned the offer of reemployment. For reporting to the duty and accepting the fresh appointment, the workman is to report either through the union representative or through the L.E.O. (Central), Barbil.
4. Each term of the settlement if not specifically provided shall be implemented within three months from the date of publication of the Award.

This terms of settlement shall form part of the Award.

PRAYER

It is therefore prayed that the terms of the settlement may be recorded and an Award may be passed accordingly and for this act of kindness the parties shall ever pray as in duty bound.

Keonjhar

Dated : 6-12-1994

Sd/-

By the 1st party No. 1

Sd/-

By the 1st party No. 2

Sd/-

Union representative

VERIFICATION

I, Bipin Behari Lal, contractor, 1st party No. 1 in the above case do hereby verify after going through the contents which I believe to be true and correct and I sign this verification on this 6th day of December, 1994 being present at Keonjhar.

Sd/-

Verificat

Keonjhar.

Dated : 6-12-1994

VERIFICATION

I, Mangalji Atha, one of the partners of M/s. K. N. Ram & Company, 1st party No. 2 in the above case do hereby verify after going through the contents which I believe to be true and correct and I sign this verification on this 6th day of December, 1994 being present at Keonjhar.

Sd/-

Verificat

Keonjhar

Dated : 6-12-1994

VERIFICATION

I Sri Indramani Behera the General Secretary of Keonjhar Mining workers Union (CITU), Barbil representing the workmen and party in the above case do hereby verify after going through the contents which I believe to be true and correct and I sign this verification on this 6th day of December 1994 being present at Keonjhar.

Keonjhar

Dated : 6-12-1994

Sd/-

Verificat

नई दिल्ली, 6 जनवरी, 1995

का.आ. 208.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिनरल एक्सप्लोरेशन कार्पोरेशन के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-1-95 को प्राप्त हुआ था।

[संख्या एल-29012/62/91-आई आर (विविध)]

वि. एम. डेविड, डेस्क अधिकारी

New Delhi, the 6th January, 1995

S.O. 208.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mineral Exploration Corporation Ltd. and their workmen, which was received by the Central Government on 6-1-1995.

[No. L-29012/62/91-IR (Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE SHRI M. S. SULLAR, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
LABOUR COURT, CHANDIGARH

Case No. I. D. 53 of 1992

Jot Ram Swami

Vs.

Mineral Exploration Corporation Ltd.

For the workman—Shri Dalip Mahajan.

For the management—Shri K. L. Mago.

AWARD

The brief facts relevant for the disposal of present reference are that the petitioner Jot Ram Swami was appointed as a contingent worker on 22-12-1984 by the management. He absented from his duty for about 14 days. He was charge sheeted and a domestic enquiry was held. After enquiry his services were terminated w.e.f. 22-9-1990. The workman has challenged his termination order on the ground that the enquiry was illegal and no proper procedure was followed by the enquiry officer.

2. In the wake of industrial dispute u/s 10 of the Industrial Disputes Act, 1947, (hereinafter to be referred as Act), Central Government vide letter No. 29012/62/91-IR (Misc.) dated 28-5-1992 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Mineral Exploration Corporation Ltd. Tosham Distt. Bhiwani in terminating the services of Shri Jot Ram Swami the workman w.e.f. 22-9-1990 is legal, just and fair ? If not what relief the workman concerned is entitled to and from what date ?”

3. The management has contested the claim of the petitioner and filed written statement inter-alia stoutly denying the allegations of the workman. The management prayed for the dismissal of the reference petition.

4. On 6-9-1994, the case was fixed for proper orders and it was adjourned to 17-10-1994 for cross-examination of the workman. Again the case was adjourned to 8-11-1994 for the said purpose. On that day case was again adjourned

for today, for cross-examination of the workman. Today the workman is present. Instead making statement in order to substantiate his claim the workman has made the following statement :

“I do not want to prosecute the reference which may be declined as I had compromised the matter with the management. I have received a cheque of the sum of Rs. 14165-45 in lieu of my full and final settlement of claim of back wages, gratuity and compensation etc.”

He has also received a cheque for Rs. 14165.45 in lieu of full and final settlement of his claim of back wages, gratuity and compensation etc. in the Court.

Since the matter has been compromised by the parties and no dispute remains to be adjudicated upon, in this view of the matter and in view of the statement of the workman, the reference is declined. The appropriate Government be informed accordingly.

Chandigarh,

Dated : 6-12-1994.

M. S. SULLAR, Presiding Officer

नई दिल्ली, 6 जनवरी 1995

का.आ. 209.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सतना स्टोन एंड लाईम कं. लिमिटेड के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (एम. पी.) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-1-95 को प्राप्त हुआ था।

[संख्या एल-29011/33/93-आई आर (विविध)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 6th January, 1995

S.O. 209.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur (M.P.) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Satna Stone and Lime Co. Ltd. and their workmen, which was received by the Central Government on 6-1-1995.

[No. L-29011/33/93-IR (Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(86)/1994

BETWEEN

Workmen represented by Shri Hiralal Gupta, General Secretary, United Mines and Lime Co., Satna (MP).

AND

The General Manager, Satna Stone and Lime Co. Ltd., Post Box No. 10, Satna Siding, Satna (MP)-485001.

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—Shri C. S. Tiwari

For Management—Shri Santosh Khare, Advocate.

INDUSTRY : Stone and Lime Co.

DISTRICT : Satna
(MP)

ANNEXURE

Dated, the 19th December, 1994

AWARD

This is a reference made by the Central Government in the Ministry of Labour vide its Notification No. L-29011/33/93-IR (Misc.) dated 8-7-1994 for adjudication of the following dispute :—

SCHEDULE

“क्या प्रबंधन सतना स्टोन एंड लाइम कंपनी लि० सतना (म० प्र०) के प्रबंधकों द्वारा क० की दोनों इकाइयों के श्रमिकों की सेवानिवृत्ति आयु अलग-अलग 55 एवं 58 वर्ष की जगह दोनों इकाइयों में 58 वर्ष न को जाने की कार्यवाही न्यायोचित है। यदि नहीं तो संबंधित कर्मकार किस अनुतोस के हकदार है।”

2. The workman has not submitted the statement of claim.

3. Management has alleged in the statement of claim that the age of retirement of workers in its Mines is governed by the Certified Standing Orders and according to Clause 16 of the Certified Standing Orders the service of a worker after attaining the age of 55 years can be terminated on medical ground. It is further alleged that the reference is to be answered in favour of the management in view of Clause 16 of the Certified Standing Orders.

4. Parties have filed Settlement which was verified. In substance the management has agreed for raising the age of retirement of the workman from 55 to 58 years. The settlement is in relation to the terms of reference and it is just and proper.

5. Consequently, the reference is answered in favour of the Union and it is held that the age of retirement of the workers in both the units of the management should be 58 years in terms of the settlement reached between the parties. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 6 जनवरी, 1995

का.आ. 210.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईम्प्लॉयर्स स्टेट ईंश्योरेंस कारपोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर (एम.पी.) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-1-95 को प्राप्त हुआ था।

[संख्या एल-15012/3/86-डी II (बी)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 6th January, 1995

S.O. 210.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award of the Central Government Industrial Tribunal, Jabalpur (MP) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Employees State Insurance Corporation and their workmen, which was received by the Central Government on 6-1-1995.

[No. L-15012/3/86-D.II (B)]

B. M. DAVID, Desk Officer

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP)

Case Ref. No. CGIT/LC(R)(222)/1987

BETWEEN

Shri Raghunath Shive Ram Dave, Ex-Peon C/o Shri B. S. Bisen, Baradadin, Mukhtiyarganj, Satna (MP)

AND

The Regional Director, Employees State Insurance Corporation, Gokul Chambers, 11 Dr. Sarjoo Prasad Marg, Indore (M.P.).

PRESIDED IN :

By Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman—Shri B. S. Bisen, Advocate.

For Management—Shri R. K. Gupta, Advocate,

INDUSTRY : ESI Corpn. DISTRICT : Indore (MP)

AWARD

Dated, the 23rd December, 1994

This is a reference made by the Central Government in the Ministry of Labour vide its Notification No. L-15012/3/86-D.II (B) dated 12th October, 1987 for adjudication of the following industrial dispute :—

SCHEDULE

“Whether the action of the management of Employees' State Insurance Corporation, Indore in terminating Shri Raghunath Shive Ram Dave, Ex-Peon Satna from service with effect from 23-5-1986 is legal and justified ? If not, to what relief is the workman entitled ?”

2. Admitted facts of the case are that the workman, Shri Raghunath Shive Ram Dave, was appointed on temporary basis vide order dated nil on the post of Peon and his service were terminated on 30-5-1986.

3. The case of the workman is that from his date of appointment on 10-9-1984 till his termination from service on 30-5-1986 his services were continuous and uninterrupted and the management has retrenched him without paying the retrenchment compensation and the management has not given opportunity to the workman for re-employment after his termination although number of appointments were made after the termination of service of the workman. The workman has claimed that his termination order be declared illegal and unjustified and he is reinstated with effect from the date of his termination with full back wages and seniority.

4. Management has alleged that the provisions of the I. D. Act, 1947 are not applicable to the employees of Estate Insurance Corporation and as such the reference is bad in law. It is contended by the management that the workman was employed on ad hoc basis for the reason that the regular peon was promoted on ad hoc basis as a record shorter and the record shorter was promoted on ad hoc basis as L.D.C. and that the L.D.C. appointed on ad hoc basis was reverted back and as such the services of the workman who was appointed temporarily on ad hoc basis has come to an end; that the termination of services of the workman is not a retrenchment in view of Section 2(oo) (bb) of the I. D. Act was not paid to the workman, the management prayed that the dismissal of the workman from service is just and proper and the workman is not entitled for reinstatement and back wages.

5. After the parties filed the statement of claim and the written statement issues were framed on 11-10-1990 and

the case was posted for evidence on 22-4-1991. On 22-4-1991 workmen and the witnesses were absent and the case was fixed for evidence on 27-8-1991. On 27-8-1991 workmen and the witnesses were absent and the case was fixed for evidence on 3-10-1991. On 3-10-1991, 2-1-1992, 4-2-1992, the witnesses of the workman were absent. On 18-10-1994 the case was again posted for evidence of the parties but the witnesses of the workman and the workman both were absent. There is no evidence, oral or documentary, to prove that the workman has worked continuously for the period of 240 days in a calendar year. The workman has not examined himself nor he has filed an affidavit to substantiate the averments made in the statement of claim. The workman has filed a document in which it is clearly mentioned that he was appointed temporarily. There is no evidence to prove that the appointment of the workman was against the permanent vacant post. Consequently, it is held that the workman has failed to discharge the burden of proving the terms of reference that his termination of service as a Peon was unjustified and illegal.

6. Consequently, it is held that the workman has failed to prove the terms of reference. Terms of reference are answered against the workman. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 9 जनवरी, 1995

का.आ. 211.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलिटरी फार्म के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-1-95 को प्राप्त हुआ था।

[संख्या एल-42012/98/91-आईआर (डी.यू.)]
के. वी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 9th January, 1995

S.O. 211.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Military Farm and their workmen, which was received by the Central Government on 6-1-1995.

[No. L-42012/98/91-IR (DU)]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI M. S. SULLAR, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

Case No. I. D. 80/92

Sulinder Kumar

Vs.

Military Farm.

For the Workman—Shri B. R. Prabhakar.
For the Management—Shri G. C. Babber.

AWARD

Dated, the 1st December, 1994

In the wake of Industrial Disputes raised by the Workman. Central Government, vide letter No. L-42012/98/91-I.R. (DU) dated 16th July, 1992, referred the following dispute

to this Tribunal for adjudication. Under Section 10 of the Industrial Dispute Act (hereinafter referred to as the Act).

"Whether the action of the management of Military Farm BIR Dhantori in terminating the service of Shri Sulinder Kumar, w.e.f. 4-12-1990 is justified. If not, what relief he is entitled to?"

The brief facts relevant for the disposal of the present reference, are that workman was employed as Daily Rates Farm Hand by the Respondent, through Employment Exchange, in September, 1989. His services were terminated on 1-4-1990. The workman has challenged his termination order, mainly on the ground that the action of the Management, in terminating his service is illegal and his violation of provisions of Section 25-F of the Act. On the footing of aforesaid grounds, the workman prayed for his reinstatement with full back wages and continuity in service. The Management has contested the claim of the petitioner, filed the written Statement, inter alia, stoutly denying the allegation of the workman and prayed for dismissal of the reference petition.

The workman filed the affidavit on 19-5-1994 and case was fixed for cross-examination of the workman. On 30-9-1994, the case was again adjourned for today for cross-examination of the Workman. The workman instead of substantiating his claim, has made the following statement which is duly signed by his representative.

"Since I have already been reinstated by the Management and I am satisfied with the revised seniority list, so, I do not press the reference petition which may be declined."

Thus it would be seen that the workman had already been reinstated by the Management and he is satisfied with the revised seniority list so, no dispute remains to be adjudicated upon. In this view of the matter, and in view of the statement of the workman, reference petition is declined as having become infructuous. The Appropriate Government be informed accordingly.

CHANDIGARH,

Dated : 1st December, 1994.

M. S. SULLAR, Presiding Officer

नई दिल्ली, 9 जनवरी, 1995

का.आ. 212.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डायरेक्टर जनरल, भारतीय पुरातत्व विभाग के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-95 को प्राप्त हुआ था।

[संख्या एल-42011/13/92-आईआर (डी.यू.)]
के. वी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 9th January, 1995

S.O. 212.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Director General, Archaeological Survey of India and their workmen, which was received by the Central Government on 5-1-95.

[No. L-42011/13/92-IR(DU)]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESIDING
OFFICER : CENTRAL GOVT. INDUSTRIAL TRIBUNAL :
DELHI

I. D. No. 51/94

In the matter of dispute between :

Sunil Kumar and others through The President, Archaeo-
logical Survey of India Workers Union, Purana Qila,
New Delhi-110002.

Versus

Director General, Archaeological Survey of India, 11-
Janpath, New Delhi-110001.

Appearances : None

AWARD

The Central Government in the Ministry of Labour vide
its Order No. L-42011/13/92-IR(DU) dated 19-5-94 has re-
ferred the following industrial dispute to this Tribunal for
adjudication :

"Whether the Supdt. Archaeologist, New Delhi was jus-
tified in not regularising the services of 64 casual
labourers (list enclosed) and also in not granting
equal pay for equal work to these casual labourers?
If not, to what relief the workmen concerned are
entitled to?"

2. The notice was sent to the parties and was served for
18-7-94 but none appeared on that date. Fresh notice was
sent for 8-11-94 which was duly served but again nobody
appeared on that day. It appears that the parties are not
interested in pursuing this dispute. Therefore, No dispute
award is given in this case leaving the parties to bear their
own costs.

8th November, 1994.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 10 जनवरी, 1995

का.भा. 213.—औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय
सरकार, मैमर्स बी.सी.सी.एल. की मूनीडीह कोलियरी के प्रबंध-
तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनु-
बंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्यो-
गिक अधिकरण (सं. 1) धनबाद के पंचपट को प्रकाशित
करती है, जो केन्द्रीय सरकार को 29-12-94 को प्राप्त
हुआ था।

[संख्या एल-20012(456)/93-आई.आर. (कोल-1)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 10th January, 1995

S.O. 213.—In pursuance of Section 17 of the Industrial
Disputes Act, 1947 (14 of 1947), the Central Government
hereby publishes the Award of the Central Government In-
dustrial Tribunal, (No. 1) Dhanbad as shown in the Annexure,
in the industrial dispute between the employers in relation
to the management of Moonidih Colliery of M/s. Bharat
Coking Coal Ltd. and their workmen, which was received
by the Central Government on the 29-12-94.

[No. L-20012(456)/93-IR(Coal-I)]
BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) (2-A)
of the Industrial Disputes Act, 1947.

Reference No. 99 of 1994

Parties :

Employers in relation to the management of Moonidih
Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen

Present :

Shri P. K. Sinha, Presiding Officer.

Appearances :

For the Employers : Shri B. Joshi, Advocate

For the Workmen : None

STATE : Bihar

INDUSTRY : Coal

Dated, the 13th December, 1994

AWARD

By Order No. L-20012/456/93-I.R. (Coal-I) dated 8-4-1994
the Central Government in the Ministry of Labour has, in
exercise of the powers conferred by clause (d) of sub-sec.
(1) and sub-section (2-A) of Section 10 of the Industrial
Disputes Act, 1947, referred the following dispute for ad-
judication to this Tribunal :

"Whether the action of the management of Moonidih
Colliery of M/s. BCCL, P.O. Moonidih, Distt. Dhan-
bad in dismissing/terminating the services of Shri
Binod Bouri PRM w.e.f. 6/9-10-91 from the com-
pany is justified ? If not, to what relief the workman
is entitled to?"

2. The order of reference was received in this Tribunal
on 21-4-94. Thereafter notice through Registered Post was
sent to the concerned workman to file written statement,
which was duly delivered. Despite adjournments the concern-
ed workman did not file written statement. Even on 12-12-94
the concerned workman was absent.

3. It, therefore, appears that the concerned workman is not
interested in prosecuting the reference or that now he has
no dispute with the management. In the circumstances, I am
constrained to pass a 'no dispute' award in this case.

4. Therefore, I render a 'no dispute' award in the present
reference case.

P. K. SINHA, Presiding Officer

नई दिल्ली, 10 जनवरी, 1995

का.भा. 214.—औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय
सरकार, मै. भारत कोकिंग कोल लि. के प्रबंधतंत्र के संबद्ध
नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट
औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण,
(सं. 1) धनबाद के पंचपट को प्रकाशित करती है, जो
केन्द्रीय सरकार को 3-1-95 को प्राप्त हुआ था।

[संख्या एल-20012(53)/88-आई.आर. (कोल-1)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 10th January, 1995

S.O. 214.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, (No. 1) Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on the 3-1-95.

[No. L-20012(53)/88-IR(Coal-I)]

BRIJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d) (2-A) of the Industrial Disputes Act, 1947.

Reference No. 82 of 1993

Parties :

Employers in relation to the management of M/s. Bharat Coking Coal Limited.

AND

Their Workmen.

Present :

Shri P. K. Sinha, Presiding Officer.

Appearances :

For the Employers : Shri B. Joshi, Advocate.

For the Workmen : None

STATE : Bihar

INDUSTRY : Coal

Dated, the 14th December, 1994

AWARD

By Order No. L-20012(53)/88-I.R. (Coal-I) dated 22-3-1993 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of M/s. BCCL in denying promotion to Shri Akhileshwar Prasad as Asstt. Foreman against the existing cadre scheme which provides for promotion from Category-VI only is legal and justified ? If not, what relief the workman is entitled to on the basis of his officiation against this post from 10-8-82 to 4-4-83 ?"

2. The order of the reference was received in this Tribunal on 19-4-1993. Thereafter notice was issued to, and received by, the sponsoring Union to file written statement on behalf of the workman. Though adjournment were granted to the sponsoring Union to file written statement, still no one appeared and filed written statement. Even on 12-12-94 no one was present on behalf of the sponsoring Union. Therefore, it appears that the sponsoring Union and the concerned workman have lost interest in this case, or that they now have no dispute with the management.

3. I, therefore, render a 'no dispute' award in the present reference case.

P. K. SINHA, Presiding Officer

नई दिल्ली, 10 जनवरी, 1995

का.मा. 215.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. पी.सी.एल. की सयाल 'डी' कोलियरी के प्रबंध-तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध

में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1) धनबाद के पंचपद को प्रवर्णित करती है, जो केन्द्रीय सरकार को 29-12-94 को प्राप्त हुआ था।

[संख्या एल-20012(207)/91-आई आर (कोल-1)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 10th January, 1995

S.O. 215.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, (No. 1) Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Sayal 'D' Colliery of M/s. Central Coalfields Ltd. and their workmen, which was received by the Central Government on the 29-12-94.

[No. L-20012(207)/91-IR(Coal-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d) (2-A) of the Industrial Disputes Act, 1947.

Reference No. 134 of 1992

Parties :

Employers in relation to the management of Sayal 'D' Colliery of M/s. C.C. Ltd.

AND

Their Workmen.

Present :

Shri P. K. Sinha, Presiding Officer.

Appearances :

For the Employers : Shri R. S. Murthy, Advocate

For the Workmen : None

STATE : Bihar

INDUSTRY : Coal

Dated, the 13th December, 1994

AWARD

By Order No. L-20012(207)/91-I.R. (Coal-I) dated 13-10-92 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of M/s. C.C.L. Sayal 'D' Colliery under the jurisdiction of G. M. (Barkakana) P.O. Barakana, Distt. Hazaribagh in retiring Shri Shiv Charan Rabidas, an Ex-Wagon Loader from services is justified ? If not, to what relief Shri Shiv Charan Rabidas is entitled ?"

2. The order of reference was received in this Tribunal on 9-11-1992. Thereafter notice was sent to the sponsoring Union to file written statement on behalf of the workman, which was duly delivered. Despite adjournments, neither the concerned workman nor the sponsoring Union appeared after receipt of second notice and filed written statement. Even on 1-12-1994 no one was present on behalf of the workman.

3. It, therefore, appears that the sponsoring Union has lost interest in this reference, or that it now has no dispute with the management. In the circumstance, it is justified to render a 'no dispute' award in this case.

4. Therefore, I render a 'no dispute' award in the present reference case.

P. K. SINHA, Presiding Officer

नई दिल्ली, 10 जनवरी, 1995

का.आ. 216—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. बी.पी.सी.एल. का केडला ओपन कास्ट प्रोजेक्ट के प्रबंधन के संबंध नियोजकों और उनके कर्म-कारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-12-94 को प्राप्त हुआ था।

[संख्या एल-20012(93)/92-आई आर (कोल-1)]
ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 10th January, 1995

S.O. 216.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, (No. 1) Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Kedla Open Cast Project of M/s. Central Coalfields Ltd. and their workmen, which was received by the Central Government on the 29-12-94.

[No. L-20012(93)/92-IR(Coal-I)]
BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d)(2-A) of the Industrial Disputes Act, 1947.

Reference No. 116 of 1992

Parties :

Employers in relation to the management of Kedla Open Cast Project of M/s. C.C. Ltd.

AND

Their Workmen.

Present :

Shri P. K. Sinha, Presiding Officer.

Appearances :

For the Employers : Shri R. S. Murthy, Advocate.

For the Workmen : None.

STATE : Bihar

INDUSTRY : Coal

Dated, the 12th December, 1994

AWARD

By Order No. L-20012(93)/92-I.R. (Coal-I) dated 25-9-92 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the retirement of Shri Hetu Das, Piece rated worker (P.R.W.) of Kedla Open Cast Project, At & P.O. Kedla, Distt. Hazaribagh with effect from 1-7-91 by the management of Kedla Open Cast Project of CCL. At & P.O. Kedla, Distt. Hazaribagh is legal and justified? If not, to what relief the workman entitled to?"

2. The order of the reference was received in this Tribunal on 12-10-92. Thereafter notices through Registered Post were sent to the sponsoring Union to file written statement on behalf of the workman, which were duly delivered. Despite

several adjournments neither the concerned workman nor the sponsoring Union filed written statement. Even on 5-12-94 no one was present on behalf of the workman.

3. It, therefore, appears that the sponsoring Union has lost interest in this reference or that it now has no dispute with the management. In the circumstances, it is proper to pass a 'no dispute' award in this case.

4. Therefore, I render a 'no dispute' Award in the present reference case.

P. K. SINHA, Presiding Officer

नई दिल्ली, 10 जनवरी, 1995

का.आ. 217—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. सेन्ट्रल कोलफील्ड्स लि. का बरकाकना क्षेत्र के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-95 को प्राप्त हुआ था।

[संख्या एल-20012/126/88-आई आर (कोल-1)]
ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 10th January, 1995

S.O. 217.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, (No. 1) Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Karkakana Area of M/s. Central Coalfields Ltd. and their workmen, which was received by the Central Government on the 3-1-1995.

[No. L-20012(126)/88-IR(Coal-I)]
BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 124 of 1989

Parties :

Employers in relation to the management of Barakhana Area of M/s. Central Coalfields Limited.

AND

Their Workmen.

Present :

Shri P. K. Sinha, Presiding Officer.

Appearances :

For the Employers : Shri R. S. Murthy, Advocate.

For the Workmen : Shri R. N. Prasad, President of Indian National Coal Mines Engineering Workers Association.

STATE : Bihar

INDUSTRY : Coal

Dated, the 14th December, 1994

AWARD

By Order No. L-20012/126/88-I.R. (Coal-I) dated 5-10-1989 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial

Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal for adjudication :

"Whether R. N. Prasad a diploma holder Foreman of Saunda 'D' Colliery was senior to the Chagemen who were promoted by the management's order dated 8-9-77 ? If so, whether he has been superseded by his juniors on 11-7-1981 ? If so, to what relief the workman is entitled to ?"

2. A petition under the signature of Raghunandan Prasad, President of the sponsoring Union was filed on 12-12-1994 stating therein that the concerned workman has since been promoted by the management to the rank of officer in E-2 Grade. It had been stated that the workman had decided not to pursue the case. A prayer was also made to render 'no dispute' award. The application also appears to have been signed by the workman concerned.

3. Shri R. S. Murthy, Advocate of the management, submitted that since there is no dispute, the reference accordingly be imposed of Shri I. P. Singh, Advocate, appearing for the workman, also submitted the same.

4. Since it appears that now there is no dispute between the sponsoring Union and the management, I render a 'no dispute' award in the present reference case.

P. K. SINHA, Presiding Officer

नई दिल्ली, 10 जनवरी, 1995

का.आ. 218.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. बी.सी.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-1-95 को प्राप्त हुआ था।

[संख्या एल-20012(83)/88-डी 4(ए) आई आर (कोल-1)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 10th January, 1995

S.O. 218.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Bharat Coking Coal Ltd and their workmen, which was received by the Central Government on 3rd January, 1995.

[No. I-20012(83)/88-D-IV(A)/IR(Coal-I)]
BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) (2-A) of the Industrial Disputes Act, 1947

Reference No. 122 of 1990

PARTIES :

Employers in relation to the management of M/s. Bharat Coking Coal Ltd.

AND

Their Workmen.

PRESENT :

Shri P. K. Sinha, Presiding Officer

APPEARANCES :

For the Employers : Shri B. Joshi, Advocate.

For the Workmen : None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 15th December, 1994

AWARD

By Order No. I-20012(83)/88-D-IV(A)/IR.(Coal-I), dated, the 28th May, 1990, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the management of M/s. Bharat Coking Coal Ltd. through its General Manager, Barora Area No. I is justified in denying absorption of 124 contract labour workmen as per annexure who were employed through the contractors M/s. Alock Coal Agency, in the regular service and in stopping employment w.e.f. 4-5-1988 and later retrenching them w.e.f. 11-7-88 ? If not, to what relief the concerned workmen are entitled to ?"

2. Written statements and rejoinders were filed by the respective parties. Thereafter the case was fixed for filing of documents by the workmen on 6-10-94. On 6-10-94 Sri D. Mukherjee appearing for the sponsoring Union, i.e., R.C.M.S., submitted that he was withdrawing himself from this case on the ground that after entrusting him with the file, his clients have taken no step to brief him about the case, hence he was unable to represent the cause of the workmen properly.

3. Sri S. Bose, an office bearer of R.C.M.S. was present on that date, who had been apprised of the situation and had been told that if the sponsoring Union did not take step on 5-12-94 appropriate order would be passed.

4. On 5-12-94 neither the concerned workmen nor the sponsoring Union was present to take step in this case.

5. Therefore, it appears that the sponsoring Union has lost interest in this reference, or that it now has no dispute with the management. In the circumstances, I am constrained to render a 'no dispute' award in this case.

6. Accordingly, I render a 'no dispute' award in this reference case.

P. K. SINHA, Presiding Officer

नई दिल्ली, 10 जनवरी, 1995

का.आ. 219.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. भारत कोकिंग कोल लि. की पाथेरडीह कोलियरी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-12-94 को प्राप्त हुआ था।

[संख्या एल-20012(45)/88 आई आर (कोल-1)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 10th January, 1995

S.O. 219.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Patherdih Colliery of M/s. B.C.C. Ltd. and their workmen, which was received by the Central Government on the 29-1-1994.

[No. I-20012(45)/88-IR(Coal-I)]
BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) (2-A) of the Industrial Disputes Act, 1947

Reference No. 35 of 1992

PARTIES:

Employers in relation to the management of Patherdih Colliery of M/s. Bharat Coking Coal Ltd.

AND

Their Workmen.

PRESENT:

Shri P. K. Sinha, Presiding Officer.

APPEARANCES:

For the Employers: Shri B. Joshi, Advocate.

For the Workmen: None.

STATE: Bihar.

INDUSTRY: Coal.

Dated, the 12th December, 1994

AWARD

By Order No. L-20012/45/88-I.R. (Coal-I) dated 21-4-92 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Patherdih Colliery of M/s. Bharat Coking Coal Ltd., in dismissing from service late Shri Bacchu Sahi, Explosive Carrier w.e.f. 31-7-87 when the workman reportedly died on 9-4-86 and in denying employment to his widow is justified? If not, to what relief is the workman or his widow entitled?"

2. The order of the reference was received in this Tribunal on 4-5-1992. Thereafter notice was sent to the sponsoring Union to file written statement on behalf of the workman, which was duly delivered. Despite several adjournments neither the concerned workman nor the sponsoring Union appeared after receipt of second notice and filed written statement. Even on 5-12-94 no one was present on behalf of the workman.

3. It, therefore, appears that the sponsoring Union has lost interest in the reference case or that it now has no dispute with the management. In the circumstances, I am constrained to render a 'no dispute' award in this reference.

4. Therefore, I render a 'no dispute' award in the present reference case.

P. K. SINHA, Presiding Officer

नई दिल्ली, 10 जनवरी, 1995

का.आ. 220.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डायरेक्टर खादी ग्रामोद्योग कमीशन, देहरादून के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-93 को प्राप्त हुआ था।

[संख्या एल-42011/29/93-आई.आर. (डी.यु.)]

के. वी. बी. उन्नी, डेस्क अधिकारी

New Delhi, the 10th January, 1995

S.O. 220.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of The Director, Khadi Gramudyog Commission, Dehradun and their workmen, which was received by the Central Government on 5th January, 1995.

[No. L-42011/29/93-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 103.94

In the matter of dispute between:
Shri Kamalraj Sharma through
C.I.T.U. Office, Local Bus Stand,
Dehradun-298001.

Versus

The Director,
Zonal Office,
Khadi & Gramudyog Commission,
Gen. Mahadev Singh Road,
Kanwali, Dehradun (U.P.).

APPEARANCES:

None—for the workman.

Shri Satish Kumar Sharma—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42011/29/93-I.R.(D.U.), dated 30th September, 1994 has referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the Management is not giving equal pay and other benefits to Kamal Raj and 8 other workmen is legal and valid? If not, to what relief the workmen are entitled to?"

2. The representative of the Management Shri Satish Kumar Sharma stated that the matter has since been settled between the parties as per settlement Ex. M1 to M-9 duly signed by all the workmen and no dispute now exists between the parties. In view of the settlement No Dispute award is given in this case leaving the parties to bear their own costs.

GANPATI SHARMA, Presiding Officer

21st December, 1994.

नई दिल्ली, 10 जनवरी, 1995

का.आ. 211.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.डी.ओ. टेलीकाम, धर्मावाराम के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण, आन्ध्र प्रदेश के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-1-1995 को प्राप्त हुआ था।

[संख्या एल-40012/20/92-आई.आर. (डी.यु.)]

के. वी. बी. उन्नी, डेस्क अधिकारी,

New Delhi, the 10th January, 1995

S.O. 221.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Andhra Pradesh as shown in the Annexure, in the industrial

dispute between the employers in relation to the management of S.D.O. Telecom., Dharmavaram and their workmen, which was received by the Central Government on 10th January, 1995.

[No. L-40012/20/92-JR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I AT HYDERABAD

PRESENT:

Sri A. Hanumanthu, M.A., LL.B., Chairman.
Industrial Dispute No. 3 of 1993

BETWEEN

Sri P. Veerananarayana, S/o Sri P. Reddappa,
Patravala pally (Vill.) Makmedepalle (P.O.),
Via Gandlapatki, Kadi (Tq.),
Ananthapur District-515521.

...Petitioner/Workmen.

AND

The Sub-Divisional Officer,
Telecom, Dharmavaram-515762.

...Respondent/Management.

APPEARANCE:

None—for the Petitioner.

Sri P. Damodar Reddy, Additional Standing Counsel—
Government.

AWARD

The Government of India, Ministry of Labour, by its Order No. L-40012/20/92-JR(DU), dated 18th January, 1993, referred the following dispute under Section 10(1)(d) and 2A of Section 10 of the I.D. Act, 1947 (Between the Management of S.D.O. Telecom Dharmavaram and their workmen to this Tribunal for adjudication:

"Whether the action of the Management of Sub-Divisional Officer, Telecom, Dharmavaram is justified in terminating the service of Sri P. Veerananarayana, S/o Sri P. Reddappa, w.e.f. 1st February, 1990. If not what relief he is entitled to?"

2. This reference was registered as Industrial Dispute No. 3/93 and notices were issued to both parties by RPAD. Both the parties acknowledged the notices. P. Damodar Reddy Additional Standing Counsel for Central Government filed Memo of appearance to the Respondent. P. Bhaskar, Advocate offers to file Vakalat for the Petitioner. Several adjournments were granted to the petitioner from 6th March, 1993 to 1st March, 1994 for filing Vakalat C.C.S. on 1st March, 1994 no representation for the petitioner was made and no Vakalat was filed on his behalf. Hence his right to file the Claim Statement was forfeited and the case was posted for filing counter of the management. Management also failed to file its counter through several adjournments granted from 12th March, 1994 to 20th December, 1994.

3. In the above circumstances, I find that there is no reason for adjourning the matter still further as the petitioner and respondent evinced no interest in the matter since they failed to file their Claim Statement as well as Counter. Hence the reference is closed.

Typed to my dictation given under my hand and the seal of this Tribunal this the 20th day of December, 1994.

A. HANUMANTHU, Chairman

Appendix of Evidence

NIL

नई दिल्ली, 10 जनवरी, 1995

का.आ. 222—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में/ केन्द्रीय सरकार, मै. भारत कोकिंग कोल लि. की बरारी कोलियरी के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-1-95 को प्राप्त हुआ था।

[संख्या एल-20012(180)/93-आई.आर. (कोल I)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 10th January, 1995

S.O. 222.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, (No. 1) Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bararee Colliery of M/s. B.C.C Ltd, and their workmen, which was received by the Central Government on the 5-1-1995.

[No.L-20012(180)/93.JR(Coal-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d)(2-A) of the Industrial Disputes Act, 1947.

Reference No. 144 of 1994

PARTIES:

Employers in relation to the management of Bararee Colliery of M/S. BCCL.

AND

Their Workmen

PRESENT:

Shri P. K. Sinha, Presiding Officer

APPEARANCES:

For the Employers—None.

For the Workmen—None.

STATE : Bihar

INDUSTRY : Coal

Dated, the 30th December, 1994

AWARD

By Order No. L-20012(180)/93-I.R. (Coal-I), dated, the 6th/10th June, 1994, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Bararee Colliery of BCCL in termination of service of workman, Shri Garib Bhuiyan without following the procedure is justified? If not, to what relief is the above said workman entitled?"

2. The order of the reference was received in this Tribunal on 20-6-1994. Thereafter notice was sent to the sponsoring Union to file written statement on behalf of the workman, which was duly delivered. Neither the concerned workman nor the sponsoring Union appeared and filed written statement. Even on 29-12-94 no one was present on behalf of the workman.

3. It, therefore, appears that the sponsoring Union has lost interest in this reference or that it now has no dispute with the management.

4. Therefore, I render a 'no dispute' award in the present reference case.

P. K. SINHA, Presiding Officer

नई दिल्ली, 10 जनवरी, 1995

का.आ. 223.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लि., नई दिल्ली, के प्रबन्धन के संबद्ध नियोक्ताओं और उनके कर्मचारों के बीच अनुव्यव में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करता है, जो केन्द्रीय सरकार को 5-1-95 को प्राप्त हुआ था।

[संख्या एन. 30011/11/93 आई.आर. (विधि) (कोल-1)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 10th January, 1995

S.O. 223.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Hindustan Petroleum Corporation Ltd., New Delhi and their workmen, which was received by the Central Government on 5-1-1995.

[No. L-30011/11/93-JR (Misc.)(Coal-I)]
BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I. D. No. 97/94

In the matter of dispute :

BETWEEN

Shri Mahabir and Others through
The Secretary,
Petroleum Workers Union,
C-160, Sarvodaya Enclave,
New Delhi.

Versus

The Chief Regional Manager,
M/s. HPCL, Jeevan Bharti Building,
Connaught Circus, New Delhi.

APPEARANCES :

Shri Manjeet Singh, Senior Manager Personnel and Administration.

None—for the workmen.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-30011/11/93-JR (Misc.)(IR (Coal-I)) dated 26-8-94 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the General Manager, Hindustan Petroleum Corporation Ltd. New Delhi was justified in not paying the full wages for the suspension period to S/Shri Mahabir (541149), Radhey Lal (541280) and Raj Kumar (541276) from 5-2-91 to 31-5-91

in view of the fact that their suspension was revoked unconditionally and charges condoned. If not, to what relief are the workmen concerned entitled ?"

2. The Management representative Shri Manjit Singh Senior Manager stated that full wages for the suspension period to the effected employee have since been paid and this was recorded in the minutes of the understanding reached with the workmen on 4-9-93. He has also filed a copy of the said agreement and no dispute exist between the parties now. The workmen had not appeared in this case inspite of notice having been sent. No Dispute award is given in this case leaving the parties to bear their own costs.

Dated : 3rd November, 1994.

GANPATI SHARMA, Presiding Officer

आदेश

नई दिल्ली, 11 जनवरी, 1995

का.आ. 224.—जबकि भारत सरकार में तत्कालीन श्रम और नियोजन मंत्रालय (श्रम और नियोजन विभाग) की अधिसूचना संख्या 1697 दिनांक 22 मई, 1965 द्वारा गठित श्रम न्यायालय संख्या-2 धनबाद के पीठासीन अधिकारी के कार्यालय में एक स्थान रिक्त हुआ है।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 8 के उपबन्धों के अनुसरण में केन्द्रीय सरकार एनद्वारा 13 दिसंबर, 1994 के पूर्वाह्न में श्री दिलीप कुमार नायक को उक्त श्रम न्यायालय के पीठासीन अधिकारी के रूप में नियुक्त करती है।

[संख्या ए-11016/4/93-सी.एन.एस-II]

इन्द्र सिंह, अवर सचिव

ORDER

New Delhi, the 11th January, 1995

S.O. 224.—Where a vacancy has occurred in the office of the Presiding Officer of the Labour Court No. 2, Dhanbad, constituted by the notification of the Government of India in the then Ministry of Labour and Employment (Department of Labour and Employment) No. S.O. 1697 dated the 22nd May, 1965.

2. Now, therefore, in pursuance of the provisions of Section 8 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby appoints Shri Dilip Kumar Nayak, as the Presiding Officer of the said Labour Court with effect from the forenoon of 13th December, 1994.

[F. No. A-11016/4/93-CLS-II]
INDER SINGH, Under Secy.

आदेश

नई दिल्ली, 11 जनवरी, 1995

का.आ. 225.—जबकि भारत सरकार में तत्कालीन श्रम और नियोजन मंत्रालय (श्रम और नियोजन विभाग) की अधिसूचना संख्या 1413 दिनांक 11 अप्रैल, 1967 द्वारा गठित औद्योगिक अधिकरण सं. 2-धनबाद के पीठासीन अधिकारी के कार्यालय में एक स्थान रिक्त हुआ है।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 8 के उपबन्धों के अनुसरण में केन्द्रीय सरकार एतद्वारा 13 दिसम्बर, 1994 के पूर्वाह्न से श्री दिलीप कुमार नायक को उक्त औद्योगिक अधिकरण के पीठासीन अधिकारी के रूप में नियुक्त करती है।

[संख्या ए-11016/4/93-सी.एल.एस-II]

इन्द्र सिंह, अवसर सचिव

ORDER

New Delhi, the 11th January, 1995

S.O. 225.—Whereas a vacancy has occurred in the office of the Presiding Officer of the Industrial Tribunal No. 2, Dhanbad constituted by the Notification of the Government of India in the then Ministry of Labour and Employment (Department of Labour and Employment) No. 1413 dated the 11th April 1967;

Now, therefore, in pursuance of the provisions of Section 8 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby appoints Shri Dilip Kumar Nayak, as the Presiding Officer of the said Industrial Tribunal with effect from the forenoon of 13th December 1994.

[F. No. A-11016/4/93-CLS-II]

INDER SINGH, Under Secy.

नई दिल्ली, 13 जनवरी, 1995

का.आ. 226.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3 जनवरी, 1995 को प्राप्त हुआ था।

[संख्या एल-12011/22/89-आईआर (बी-III)/बी-I]

पी. जे. माइकल, डेस्क अधिकारी

New Delhi, the 13th January, 1995

S.O. 226.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of Patiala and their workmen, which was received by the Central Government on 3-1-1995.

[No. L-12011/22/89-IR (B-III)](B-I)

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SHRI M. S. SULLAR, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

Case No. I. D. 209 of 1989

Mohinder Singh and Kishan Singh.

Vs.

State Bank of Patiala.

For the workman—Shri B. N. Sehgal.

For the management—Shri N. K. Zakhmi.

Dated, the 29th November, 1994

AWARD

In the wake of industrial dispute raised by the petitioners Mohinder Singh and Kishan Singh, Central Government vide its letter No. L-12011/22/89-IR (B-III) dated 8th December 1989, has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the State Bank of Patiala in denying payment of Rs. 50,000 and out of turn promotion or three advance increments to S/Shri Mohinder Singh and Kishan Singh, Armed Guards at their Swadi branch is legal and justified? If not, to what relief the concerned workmen are entitled to and from what date?"

2. The brief facts relevant for the disposal of the present reference are that on 6-6-1986 at about 10.40 A.M. both the petitioners were on armed guard duty, in the Swadi branch (district Ludhiana) of State Bank of Patiala. Some persons armed with lethal weapons entered the branch. Both petitioners immediately swung into action and challenged the robbers and in no time firing started from both sides. The case set up by the petitioners is that they successfully resisted the robbers and in the melee, both received bullet injuries in their chest. According to the workmen, they are entitled for a cash award of Rs. 50,000 and out of turn promotion or alternatively three advance increments in the existing rates in view of the Government guidelines issued due to spurt in terrorists activities in Punjab, to motivate the bank employees, general public and the police to resist the robbers/decoits. On the footing of aforesaid pleadings, the workmen claimed Rs. 50,000 and three advance increments in the existing rate or out of turn promotion, as indicated earlier.

The management has contested the claim of the workmen and filed written statement inter-alia, pleading certain preliminary objections of maintainability of the reference and objection of non-joinder and mis-joinder the necessary parties. However, it is admitted that a decoity took place at Swadi Branch of the Bank and claimants/workmen were injured, while resisting the decoits. However, the decoits took away a sum of Rs. 34,144 and a double barrel gun of the bank. Both the claimants were reimbursed full medical expenses for the treatment. According to the management, their request for granting compensation @ Rs. 50,000 each could not be acceded to because incident took place on 6-6-1986 whereas the Government issued instructions on 13-6-1986 for Award scheme. Their cases were referred to the Government of India for sanctioning their claim as a special case but the same were declined by the Government. It is alleged that both the workmen were rewarded cash amount of Rs. 20,000 each as the same was approved by the executive committee vide agenda item No. 490/D dated 19-5-1990. It will not be out of place to mention here that the management has stoutly denied the other allegations of the petitioners and pleaded that their cases were not covered under the guidelines of the Government of India. That being so, the management prayed for the dismissal of the reference petition.

4. Controverting the allegations contained in the written statement and reasserting the pleadings in the claim statement, the workmen filed the rejoinder. Further it is admitted that they have received Rs. 20,000 each under protest as part payment and without prejudice to their right to pursue their case before the Court.

5. Petitioners, in order to substantiate their claim, Mohinder Singh appeared as his own witness as WW1 who has tendered into evidence his affidavit Ex. W1 and copy of letter dated 20-6-1986, Ex. W2, cutting of Newspapers, Ex. W3, letter from the Union dated 9-1-1986, Ex. W4 and press note dated 19-6-1986, Ex. W5. The management got proved the circular dated 29-9-1987, Ex. M1. Kishan Singh petitioner appeared as WW2 and tendered into evidence his affidavit, Ex. W6.

The management in order to rebut the evidence brought on record by the workmen, examined Shri V. K. Verma

branch manager as MW1, who has tendered into evidence his affidavit Ex. M2.

6. The facts of the case are neither intricate nor in dispute. According to the petitioners, on 6-6-1986, while they were posted on armed guard duty of the bank, some robbers came and tried to loot the bank. They resisted the robbers and in the cross firing, they sustained injuries. This fact has not been specifically denied by the management. The workmen have also reiterated their stand in their affidavits Ex. W1 and W6 while appearing as WW1 and WW2. While according to the management, the workmen sustained injuries and they were given a reward of Rs. 20,000 cash each and they are not entitled for any other benefit.

7. The Representative of the management contended with some amount of vehemence that since occurrence in this case is of 6-6-1986 and the instructions Ex. M1 under which the petitioners are claiming the benefit was made effective from 13-6-1986, so the workmen are not entitled to a cash reward of Rs. 50,000 each. Faced with the situation, the representative of the workman has argued that the benefits can not be denied to the workmen as they are entitled to receive cash award on the basis of instruction applicable at the time of making the payment. The argument is that fixation of date as on 13-6-1986 vide instructions Ex. M1 are arbitrary and there are no words in the instructions to hold that it can not be operative retrospective. He has placed reliance on the observations of Hon'ble Supreme Court of India in the case of Bharat Singh Vs. New Delhi Tuberculosis Centre and others 69 F.J.R. 129 judgment of Hon'ble Punjab and Haryana High Court in Shamsher Singh and others Vs. State of Punjab and another 1988(2) S.L.R. page 408.

8. Having heard the representatives of the parties, having gone through the evidence on record and after considering the matter deeply, to my mind, contentions raised on behalf of the management are devoid of merit and it can not deny the benefits under the instructions. The mere perusal of the instruction Ex. M1 would go to show that these were formulated in pursuance of the Government of India scheme of reward to motivate bank employees, general public and members of police force to resist decoits/robbers. Ex. W2 is the copy of letter No. D.O. 1/26/36-vig. dated 20th June, 1986 from Joint Secretary, Ministry of Finance which is to the following effect.

"To motivate bank employees, the general public and the police to resist robbers/decoits, government has taken a decision to implement the scheme of reward to those resisting such decoits/robbers. The guidelines issued in this regard are as indicated below :

(a)

(b) In the case of bank employees who apprehend the decoits or are injured in the attempt :

(i) A cash reward of Rs. 50,000, and

(ii) Out of turn promotion to those injured employees who meet the minimum conditions of eligibility stipulated for promotion to the next higher grade.

For those who do not fulfil the eligibility conditions, a reward of three advance increments in his/her existing grade on a permanent basis.

(c) All expenses for treatment of injury, including hospitalisation.

(d) The cash rewards indicated above and the reimbursement of medical expenses would also be given by the bank concerned to any member of the public or the person concerned who while foiling the decoity apprehends the decoits or gets injured in the attempt."

9. It has been specifically admitted by the management in the written statement that a cash amount Rs. 20,000 each was approved by the Executive Committee and paid to the petitioners vide agenda Item No. 490, Dated 19-5-1990. To my mind, representative of the workman has rightly argued that the petitioners are entitled to all the benefits, according to the instructions as applicable on the date of payment of the award amount, which is 19-5-1990, in the present case. It has not been disputed that the Government instructions Ex. W2 and bank's instructions Ex. M1 were enforced in the year 1990 according to which the petitioners were entitled to a cash reward of Rs. 50,000 each.

10. Taking the risk of repetition and as mentioned above the management has only paid Rs. 20,000 each to the petitioners and the petitioners are also entitled for remaining amount of Rs. 30,000 each as cash reward from the management and other benefits under the scheme.

11. In the light of aforesaid reasons, the petition is accepted. The management is directed to pay Rs. 30,000 each to both the petitioners as remaining cash award and other benefits, as contemplated under the instructions Ex. W2 and Ex. M1 within one month from the publication of the Award failing which the petitioners shall also be entitled to the interest @ 12% per annum from the date of reference i.e. 8-12-89 till its realisation. The reference petition is accepted with cost of Rs. 500. Appropriate Government be informed. File be consigned to record.

Chandigarh,
29-11-1994.

M. S. SULLAR, Presiding Officer

